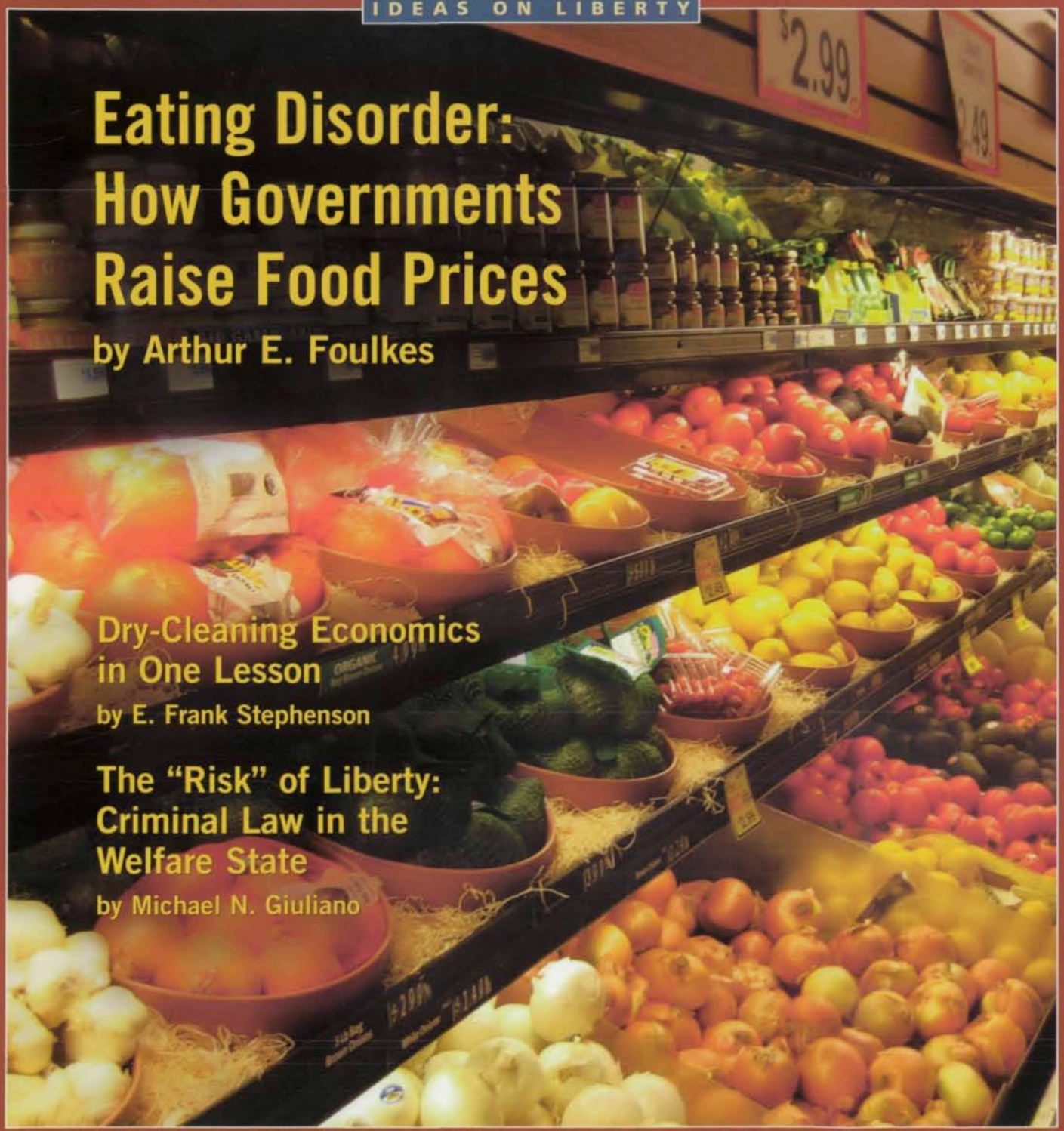
THE FREEMAN

IDEAS ON LIBERTY



Eating Disorder: How Governments Raise Food Prices

by Arthur E. Foulkes

Dry-Cleaning Economics in One Lesson

by E. Frank Stephenson

The "Risk" of Liberty: Criminal Law in the Welfare State

by Michael N. Giuliano

PUBLISHED BY THE FOUNDATION FOR ECONOMIC EDUCATION SINCE 1956

SEPTEMBER 2008

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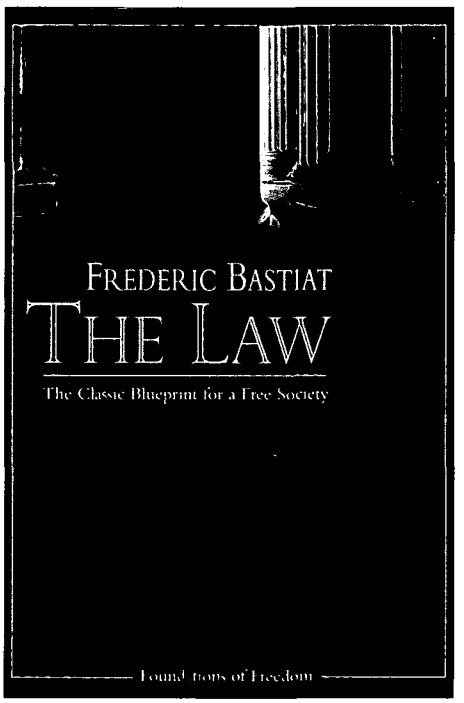
FREDERIC BASTIAT
THE LAW



Foreword by
WALTER E. WILLIAMS

FREDERIC BASTIAT (1801–1850) was a French economist, statesman, and writer. His uncompromising defenses of free trade, the market economy, and individual liberty pitted him against politicians both right and left. His writings include *Economic Sophisms,* which championed free trade; *Economic Harmonies,* a treatise on economic principles, plus a host of essays, including "The State" and "What Is Seen and What Is Not Seen." To this day, his witty aphorisms and incisive arguments are quoted by public figures, speakers, and writers everywhere.

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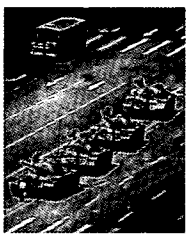

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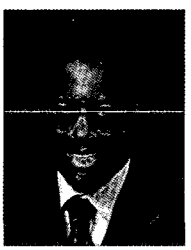

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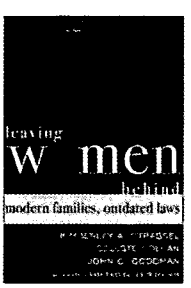

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Perspective

The "Stable Bulwark of Our Liberties"

The U.S. Supreme Court in June struck a blow for the separation of powers and dealt the Bush administration a big setback by ruling that suspects held without charge at Guantanamo Bay, Cuba, have the right to contest their imprisonment under the doctrine of habeas corpus.

Simply put, the Court held that the government may not keep anyone in custody without having to justify its actions to a judge.

In the 5–4 ruling the Court said Congress had unconstitutionally suspended habeas corpus for the detainees. It ruled that neither the fact that the petitioners were foreign nationals nor the fact that Guantanamo is not formally U.S. territory mattered to the question. Habeas corpus—the Great Writ—was at the core of the Founders' efforts to deprive government of arbitrary power, the majority said.

Writing for the majority, Justice Anthony Kennedy said, "[P]rotection for the privilege of habeas corpus was one of the few safeguards of liberty specified in a Constitution that, at the outset, had no Bill of Rights. In the system conceived by the Framers the writ had a centrality that must inform proper interpretation of the Suspension Clause."

The Suspension Clause of Article I, Section 9, of the U.S. Constitution states: "The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." The "privilege" is not restricted to U.S. citizens.

In a law signed by President Bush in 2006, the Military Commissions Act (MCA), Congress sought to take away the courts' jurisdiction over habeas corpus petitions from Guantanamo detainees. The majority declared that section of the MCA unconstitutional.

The Bush administration maintained that an adequate alternative to habeas corpus had been provided, but the majority disagreed. In fact, under current law, detainees have none of the usual safeguards accorded people accused of crimes.

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The Court rejected the argument that the detainees are in effect conventional prisoners of war, since they can be held indefinitely without charge—some have been held for six years—and some were apprehended far from any actual battlefield. "The costs of delay can no longer be borne by those who are held in custody," Kennedy wrote.

What is heartening about the decision is the majority's emphasis on how important habeas corpus is to the never-ending effort to keep government on a short leash. Key to that, it said, is the separation of powers. Without habeas corpus, the executive branch acquires the powers of the judiciary in conflict with the intent of the framers.

"The Framers' inherent distrust of governmental power was the driving force behind the constitutional plan that allocated powers among three independent branches. This design serves not only to make Government accountable but also to secure individual liberty."

And what of security? Kennedy responded, "The laws and Constitution are designed to survive, and remain in force, in extraordinary times. Liberty and security can be reconciled; and in our system they are reconciled within the framework of the law. The Framers decided that habeas corpus, a right of first importance, must be a part of that framework, a part of that law."

The Court noted that the great jurist William Blackstone described the Habeas Corpus Act of 1679 as the "stable bulwark of our liberties."

Whatever the leeway extended to the U.S. government in past wars, the Court majority understands that the current situation is different and especially fraught with the potential for tyranny in the name of security. The administration has declared the entire world—including the territory of the United States—a battlefield in a "war on terror" that by its very nature has no specific adversary or identifiable end point. Thus defenders of liberty must be wary of claims to extraordinary powers.

★ ★ ★

Food prices are rising worldwide, and some of the reaction has been ugly. Are we entering an era of food shortages, or is something else afoot? Arthur Foulkes has an explanation.

Does a slowing economy offset the inflationary forces that otherwise would be wreaking havoc with our household budgets? Today's conventional wisdom is nothing to find comfort in, writes Howard Baetjer.

We can all sleep well knowing that the government protects us from the dastardly Chinese who are dumping wire shirt hangers on us at below-cost prices. Well, some people seem to think so, Frank Stephenson says.

There was a time when, to be convicted of a crime, it had to be proven by the state that with malice aforethought you meant to injure someone or take his property. Those days are no more, and the resulting perils to liberty are great. Michael Giuliano explains.

Does every reform measure carrying the "free market" label really roll back the power of government? Not necessarily. Kevin Carson, looking at the system as a whole, tells why.

Governments have killed more civilians throughout history than any other force. While a noted scholar has correlated murder by government with the absence of democracy, Stephen Carson proposes another culprit: disregard of property rights.

Our columnists have cooked up some savory dishes. New FEE President Lawrence Reed, in a reprint of his first "Ideas and Consequences" column, issues a still-timely warning about the erosion of the consensus over the limits of government. Donald Boudreaux is uninspired by the pervasive romanticizing of democracy. Burton Folsom shows that not all notions of equality are equal. John Stossel is beginning to believe that crowds can be pretty smart. Walter Williams explains why economists don't get invited to parties. And James Bovard, encountering the argument that freedom is not what really matters these days, objects, "It Just Ain't So!"

Our book reviewers have been busy with volumes on capitalism, technology, women, and John Rawls.

Capital Letters features an exchange between Bettina Bien Greaves and Kevin Carson.

—Sheldon Richman
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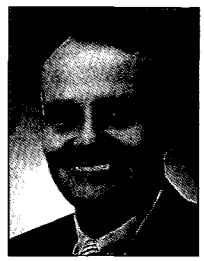

Freedom or Free-for-All?

BY LAWRENCE W. REED

Imagine playing a game—baseball, cards, "Monopoly," or whatever—in which there was only one rule: *anything goes.*

You could discard the "instruction book" from the start and make things up as you go. If it "works," do it. If it "feels good," why not? If opposing players have a disagreement (an obvious inevitability)—well, you can just figure that out later.

What kind of a game would this be? Chaotic, frustrating, unpredictable, impossible. Sooner or later, the whole thing would degenerate into a mad free-for-all. Somebody would have to knock heads together and bring order to the mess.

Simple games would be intolerable played this way, but for many deadly serious things humans engage in, from driving on the highways to waging war, the consequences of throwing away the instruction book can be almost too frightful to imagine.

The business of government is one of those deadly serious things, and like a game run amok, it's showing signs that the players don't care much for the rules any more, if they even know them at all.

Don't think for a moment that by use of the term "players" I'm pointing fingers at politicians and somehow absolving everyone else of responsibility. In a sense, all of us are players; it's just that some are more actively so than others, and of those who are active, some are more destructively so than the rest. At the very least, every citizen has a stake in the outcome.

The most profound political and philosophical trend of our time is a serious erosion of any consensus about what government is supposed to do and what it's *not* supposed to do. The "instruction books" on this matter are America's founding documents, namely the Declaration of Independence and the original Constitution with its Bill of Rights. In the spirit of those great works, most Americans once shared a common view of the proper role of government—the protection of life and property.

Jefferson himself phrased it with typical eloquence: *"Still one thing more, fellow citizens—a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government."*

The most profound political and philosophical trend of our time is a serious erosion of any consensus about what government is supposed to do and what it's *not* supposed to do.

Today, there is no common view of the proper role of government or, if there is one, it is light-years from Jefferson's. Far too many people think that government exists to do anything for anybody any time they ask for it, from day care for their children to handouts for artists.

Former [and current] Texas Congressman Ron Paul used to blow the whistle whenever a bill was proposed that violated the spirit or the letter of the Constitution. How were his appeals received by the great majority of other members of Congress? "Like water off a duck's back," Paul once told me.

In a series of lectures to high-school classes one day last October, I asked the students (most of whom were seniors) what they thought the responsibilities of

Lawrence Reed (lreed@fee.org) became the president of FEE on September 1. To honor the occasion, we reprint his first "Ideas and Consequences" column, which was originally published in The Freeman *in April 1994.*

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government were. I heard "Provide jobs" far more often than I heard "Guarantee our freedoms." (In fact, I think the only time I heard the latter was when I said it myself.)

An organization called the Communitarian Network made news recently when it called for government to make organ donations mandatory, so that each citizen's body after death could be "harvested" for the benefit of sick people. A good cause, for sure, but is it really a duty of government to take your kidneys?

Americans once understood and appreciated the concept of individual rights and entertained very little of this nonsense. But there is no consensus today even on what a right *is,* let alone which ones we as free citizens should be free to exercise.

When the Reagan administration proposed abolishing subsidies to Amtrak, the nationalized passenger-rail service, I was struck by a dissenter who phrased her objection on national television this way: "I don't know how those people in Washington expect us to get around out here. We have a right to this service."

When Congress voted to stop funding the printing of *Playboy* magazine in Braille, the American Council of the Blind filed suit in federal court, charging that the congressional action constituted censorship and the *denial of a basic right.*

The Cheapening of Rights

The lofty notion that individuals possess certain rights—definable, inalienable, and sacred—has been cheapened and mongrelized beyond anything our Founders would recognize. When those gifted individuals asserted rights to "freedom of speech" or "freedom of the press" or "freedom of assembly," they did not mean to say that one has a right to be given a microphone, a printing press, a lecture hall, or a *Playboy* magazine at someone else's expense.

Indeed, the Founders' concept of rights did not require the initiation of force against others, or the elevation of any "want" to a lawful lien on the life or property of any other citizen. Each individual was deemed a unique and sovereign being, requiring only that others either deal with him voluntarily or not at all. It was this notion of rights that became an important theme of America's founding documents. It is the *only* notion of rights that does not degenerate into a strife-ridden mob in which every person has his hands in every other person's pockets.

A government without rules or boundaries, that does anything for anybody, that confuses rights with wants, will yield intolerable tyranny.

Millions of Americans today believe that as long as the cause is "good," it's a duty of government. They look upon government as a fountain of happiness and material goods. They have forgotten George Washington's warning, "Government is not reason; it is not eloquence. It is force. And like fire, it is a dangerous servant and a fearful master."

Wisdom like that prompted Washington and our other Founders to write a Constitution that contained a Bill of Rights, separation of powers, checks and balances, and dozens of "thou shalt nots" directed at government itself. They knew, unlike many Americans today, that a government without rules or boundaries, that does anything for anybody, that confuses rights with wants, will yield intolerable tyranny.

We have tossed away the instruction book and until we find it and give it life and meaning in our public lives, we will drift from one intractable crisis to the next. Something more important than any handout from the State—namely, our liberty—hangs in the balance.

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Freedom Is Not the Issue? It Just Ain't So!

BY JAMES BOVARD

The Friends of Leviathan are once again encouraging people to forget about freedom. In a May op-ed piece in the *New York Times*, columnist David Brooks announced, "The central political debate of the 20th century was over the role of government. The right stood for individual freedom while the left stood for extending the role of the state. But the central debate of the 21st century is over quality of life. In this new debate, it is necessary but insufficient to talk about individual freedom. Political leaders have to also talk about . . . 'the whole way we live our lives.' "

Brooks, the "liberal" media's favorite "conservative," has long sought to place a halo over Big Government. In 1996 he urged Americans to forget their fears of politicians and embrace "national greatness." He proclaimed that "energetic government is good for its own sake. It raises the sights of the individual. It strengthens common bonds. It boosts national pride. It continues the great national project." Brooks's paean to government was almost indistinguishable from a 1932 tribute by Benito Mussolini, who declared, "It is the State which educates its citizens in civic virtue, gives them a consciousness of their mission and welds them into unity; harmonizing their various interests through justice, and transmitting to future generations the mental conquests of science, of art, of law, of human solidarity."

But fascist ideas are not tolerated in the United States—if they are labeled fascistic.

In last May's article Brooks gushed over how British conservatives are placing "more emphasis on environmental issues, civility, assimilation and the moral climate." When Brooks talks about "moral climate," he presumably means politicians lecturing citizens about the need to act responsibly. Brooks ignores the fact that the greatest irresponsibility comes from politicians. Consider his reaction to one of the worst abuses of the Bush presidency.

When Brooks talks about "moral climate," he presumably means politicians lecturing citizens about the need to act responsibly. Brooks ignores the fact that the greatest irresponsibility comes from politicians.

Brooks was a gung-ho advocate of invading Iraq. In the days after the Abu Ghraib torture photos appeared in May 2004, he bewailed; "We were so sure we were using our might for noble purposes. . . . Far from being blinded by greed, we were blinded by idealism." Brooks and other pundits congratulated themselves for having swallowed politicians' hokum and leading their readers and the nation over a cliff.

His response to the torture scandal epitomizes how he wants Americans to view government. People are supposed to believe wonderful things about it. Then, when government commits atrocities, people are supposed to "move along because there is nothing to see here." Instead, it is on to the next opportunity to put government on a pedestal and urge everyone to bow down to it.

James Bovard (jim@jimbovard.com) is the author of Attention Deficit Democracy, Terrorism and Tyranny, Lost Rights, *and other books.*

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The great political issue of our times is not liberalism versus conservatism, or capitalism versus socialism, but statism—the belief that government is inherently superior to the citizenry, that progress consists of extending the realm of compulsion, that vesting arbitrary power in government officials will make the people happy eventually. What type of entity is the state? Is it a highly efficient, purring engine, like a hovercraft sailing deftly above the lives of ordinary citizens? Or is it a lumbering giant bulldozer that rips open the soil and ends up clear-cutting the lives of people it was created to help?

The issue of government coercion has been taken off the radar screen of politically correct thought. The more government power has grown, the more unfashionable it becomes to discuss or recognize the abuses, as though it were bad form to count the dead from government interventions. There seems to be a gentleman's agreement among many pundits and political scientists to pretend that government is something loftier than it actually is and to wear white gloves when discussing the nature of the state.

Government Without Romance

Unfortunately, individuals often are unaware of government's true record because the media are working hand in glove with the ruling class.

Statists rely on political arithmetic that begins by erasing all of government's abuses from the ledger. Instead, people should begin by pretending that Leviathan doesn't exist—and then ask what politicians can do to make the masses happy.

Modern political thinking largely consists of glorifying poorly functioning political machinery—the threats, bribes, and legislative cattle prods by which some people are made to submit to other people. It is a delusion to think of the state as something loftier than all the edicts, penalties, prison sentences, and taxes it imposes.

Like Tom Sawyer persuading his friends to pay him for the privilege of painting his aunt's fence, modern politicians expect people to be grateful for the chance to pay for the fetters that government attaches to them. Even though the average family now pays more in taxes than it spends for housing, clothing, and food combined, tax burdens are not an issue for most American political commentators.

To call for government intervention is to demand that some people be given the power to compel others to submit. But coercion is a blunt instrument that produces many ill effects aside from the purported government goal. To rely on coercion to achieve progress is like relying on bulldozers and steamrollers for routine transit. The question is not whether a person can eventually reach a goal driving a steamroller, but how much damage is left in his wake and how much faster the destination could be reached without crushing everything along the way.

Americans and Washington

Many people in Washington believe that Americans are so helpless that they cannot be fulfilled unless their rulers give them a reason to live. Brooks proclaimed in 1996 that "ultimately, American purpose can find its voice only in Washington." He did not explain where exactly in the memos, meetings, and machinations which engross the capital that "American purpose" arises. Brooks warned that Americans' mental health depends on the feds proclaiming a purpose for the people: "Without vigorous national vision, we are plagued by anxiety and disquiet."

Recent opinion polls show that much of the anxiety in this nation is the result of the follies and deceits of the federal government. It was government and politicians, not freedom, that failed Americans in the new century. It was not freedom that wrecked the U.S. dollar. It was not freedom that made federal spending explode. It was not freedom that spurred a foreign war that has already left tens of thousands of Americans dead and maimed, and hundreds of thousands of Iraqis dead. It was not freedom which announced that the Constitution and the statute book no longer bind the president.

Brooks became a media darling in part because of his vehement warnings about the danger of cynicism. But it is not cynical to have more faith in freedom than in subjugation. It is not cynical to have more faith in individuals vested with rights than in bureaucrats armed with power. It is not cynical to suspect that governments which have cheated so often in the past may not be dealing straight today.

Trust no intellectual who tells you not to worry about Leviathan.

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Eating Disorder: How Governments Raise Food Prices

BY ARTHUR E. FOULKES

Higher food prices may be frustrating Americans, but they are literally killing people in the least industrialized parts of the world. Hundreds of millions of the world's poorest people—who live close to starvation even in good years—are facing malnutrition and chronic hunger. The absolute poorest are facing death.

In the 12 months leading to March 2008, the United Nations Food Price Index rose more than 52 percent. Last year global wheat prices rose 120 percent. In Bangladesh it now takes half-a-day's labor for a poor family to afford a 4.4-pound bag of rice.

Even in the United States food prices are noticeably higher. Milk prices rose 19 percent in 2007, while cheese and bread prices rose more than 10 percent. Overall, U.S. food prices increased 4.9 percent last year, compared with 4.1 percent for prices in general.

In many poor countries higher food prices have sparked demonstrations or riots. In January thousands marched in a food protest in Mexico City. In February police in Malaysia arrested more than 50 protesters during a demonstration against rising food costs. Food protests or riots have also shaken Haiti, Egypt, Bangladesh, Mozambique, India, Indonesia, Burkina Faso, Morocco, Ivory Coast, Guinea, Mauritania, Cameroon, Senegal, Uzbekistan, and Yemen.

What is going on?

We can discount the usual claims that for ecological reasons food production is falling. As Harvard economist Amartya Sen wrote recently in the *New York Times*, "The global food problem is not being caused by a falling trend in world production, or for that matter in food output per person (this is often asserted without much evidence). It is the result of accelerating demand."

In the 1800s French economist Frédéric Bastiat observed that the "prodigiously ingenious mechanism" of the free market somehow—without a central plan—fed Paris. Years before, Adam Smith wrote of the "invisible hand" that guides self-interested individuals to provide food and drink for others. As Smith observed, "It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest."

Hundreds of millions of the world's poorest people—who live close to starvation even in good years—are facing malnutrition and chronic hunger.

Today's food crisis may lead us to ask whether Bastiat's "ingenious mechanism" has broken down. Has Smith's "invisible hand" become a visible failure?

Hardly. While some of the rise in food prices can be traced to rising global demand or natural events, all too often the visible hand of government, which is all thumbs, is making matters far worse than they otherwise would be.

American Agricultural Policy

Government interventions infest agriculture markets like weeds and have the same choking effects.

Arthur Foulkes (arthurfoulkes@hotmail.com) writes for the Terre Haute Tribune-Star *in Indiana.*

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Some interventions, such as tariffs, quotas, and land set-asides, are designed to keep food supplies down and prices up. At the same time, other interventions, such as price supports and other subsidies, are designed to keep marginal farmers in business. Still other interventions, such as food stamps and subsidized school meals, are designed to offset the effects of government policies that make food more expensive.

Interventions that reduce food supplies include tariffs, quotas, and "antidumping" laws designed to block imports of cheaper foreign goods. Such interventions are common in the Third World, but they exist in the United States, too. Such interventions force American consumers, for example, to pay at least double the world price for sugar and dairy products. In 2003, according to the Trade Partnership, antidumping regulations forced Americans to pay duties of 148 percent on preserved mushrooms from Chile and 194 percent on honey from China.

Another intervention that cuts food supplies is the U.S. Conservation Reserve. This program, created in 1985, pays farmers to keep environmentally sensitive land out of production. Payments totaled around $2 billion annually from 1995 to 2002. Last summer more than 400,000 farmers were paid a total of $1.8 billion to keep 36.8 million acres idle—an area larger than the state of New York.

Even American food relief to poor nations has costly strings attached. Poor countries receiving U.S. Food for Peace aid must buy from U.S. farmers and the aid must then be transported on U.S.-flagged ships. In the end, less food gets to those who need it.

Unfortunately, the U.S. government is not alone in meddling in agricultural markets. In the industrialized world, government support accounted for one-fourth of all farm income in 2006. In Japan, farmers get over half their income from the government. The European Union and Mexico ban imports of genetically modified foods, and India, among many other interventions, bans foreign-owned retail grocery stores.

All told, the cost of these interventions is staggering. The International Monetary Fund estimates that ending farm subsidies in the industrialized world alone would increase global income by $100 billion.

Regardless of their immediate effects, all government interventions have important costs. Tariffs, quotas, and set-asides have direct and easily identified costs for consumers. Yet even subsidies that encourage agricultural production are costly. The money used for subsidies must first be taken from those who earned it and is therefore diverted from other uses. Perhaps more important, these subsidies distort key market signals. The miracle of expanded production that emerges from the law of comparative advantage only works when market participants face the true opportunity costs of their actions.

The International Monetary Fund estimates that ending farm subsidies in the industrialized world alone would increase global income by $100 billion.

Ethanol and Biofuel Policies

As if all of this were not bad enough, the United States and Europe now mandate the increased use of ethanol and biofuel, which divert scarce farmland away from food production. In the United States this year nearly a third of the corn crop will be turned into ethanol. And the energy bill signed last year by President Bush will force the doubling of ethanol production by 2022.

Adding to the ethanol drive, the U.S. government provides an ethanol tax credit of 51 cents per gallon and imposes a tariff of 54 cents per gallon on cheaper Brazilian ethanol. All this means the demand for American-made ethanol and, therefore, corn is through the roof. In mid-January corn was selling near a record level of about $5 per bushel.

Increasing the demand for corn, of course, means less of an incentive to grow other crops. While corn acreage is at its highest level since 1933, last year's rice acreage was down 3 percent, while cotton was down 18 percent and soybeans 16 percent. As the supplies of these and other crops have fallen, their prices have risen. Falling wheat stocks, for instance, helped contribute to more than a doubling of wheat prices last year, according to the World Bank. And although wheat

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prices have fallen recently, this spring they remained more than twice their 2006 level.

Higher corn prices have also made livestock feed more expensive. The National Chicken Council recently said higher corn prices have driven up the cost of feeding chickens by 40 percent. The U.S. Department of Agriculture, in a report published last year, said higher corn prices—thanks to ethanol production—have meant higher consumer prices for beef, pork, and chicken.

In all, the IMF and the International Food Policy Research Institute estimate biofuels have contributed between 20 and 30 percent to higher food costs, while other organizations, such as the UN Food and Agriculture Organization and the American Farm Bureau, say the figure is closer to 15 percent. Either way, it's clear that biofuel mandates are having a significant impact on global food prices.

Workers harvesting rice in northern Iran
Mostafa Saeednejad, licensed under Creative Commons Attribution 2.0

Other Reasons for Price Increases

There are certainly also nongovernmental reasons food prices are presently higher. Demand for food around the world is rising rapidly as the people of China and India, which together make up 40 percent of the world's population, become wealthier. The *International Herald Tribune* reports that per capita meat consumption in China has more than doubled since 1985 to 110 pounds annually. By some estimates, people in developing countries will consume 25 percent more poultry and 50 percent more pork by 2016.

Weather has also played a role. A drought in Australia has caused supplies of wheat to fall and has contributed to higher dairy prices as well. And a rising world population, increasing around 1.1 percent annually, also means greater demand for food of all sorts.

Still, there is much that governments have done to make matters far worse than they would otherwise be. And many government responses to the current crisis will only add to the suffering. Egypt, Argentina, Kazakhstan, and China, for example, have recently imposed restrictions on grain exports, while Vietnam and India have announced future curbs on rice exports. Russia, meanwhile, is expected to place a 40 percent tax on exports of wheat, and China has imposed price controls on grains, edible oils, and dairy products such as milk and eggs. Meanwhile, the French government is urging nations in Africa and Latin America to adopt self-sufficiency in agriculture policies.

Fortunately, not all government responses have been bad. The U.S. Congress is considering a small reduction in the subsidy for ethanol. India may reduce tariffs on imported food, and Mexico may end its ban on genetically modified agricultural products. Each of these modest steps would be in the right direction.

Despite the current crisis, hunger is clearly not the problem it once was. In 1970 around 37 percent of the population of the developing world was hungry. Today that percentage is closer to 17 percent, despite an 83 percent increase in world population during the same period. Thanks to investment in better production methods, real food prices have fallen 75 percent since 1950.

Even in the United States the food picture has changed dramatically in less than a single lifetime. In 1950 Americans spent 21 percent of their income on food; today, that figure is just 9 percent.

Still, for these dramatic improvements to continue, private property rights must be protected and market forces must be free to work. The proper response to the current food crisis is to dismantle not just some but all government interventions that currently do so much harm. Only a free market will guarantee that Bastiat's "prodigiously ingenious mechanism" will supply food to the masses of the world. And only economic freedom will enable Smith's invisible hand to lift food into hungry mouths.

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Inflation 101: Cause Versus Transmission

BY HOWARD BAETJER, JR.

It's always a pleasure for a teacher to receive a note from a former student showing that he or she has taken key lessons to heart. I had such a pleasure last winter when Joey, who had taken Money and Banking with me last fall, sent me a good question about an article in the *Washington Post*.

The *Post* article (January 21) stated, "Many . . . economists think . . . an inflationary spiral is unlikely *because a slowing economy would mean less upward pressure on prices*."

Joey asked: "If our economy is slowing, yet we are still printing money, won't that only increase inflation even more? After all, we will have more money in circulation with less being produced; that sounds like the grounds for inflation to me. Am I missing something?"

Joey zeroes in on the difference between the primary, underlying cause of inflation and secondary factors that can influence not whether, but when, how, and how fast inflation occurs. In particular he implies that "printing money" is the essential cause of inflation and challenges the notion that recessionary forces necessarily reduce inflation. He is correct on both counts. (For the record, in earlier usage, *inflation* is printing money, with rising prices the effect.)

With inflation in the United States rising and a recession perhaps already in progress, now is a good time to sort out these issues once again. What causes inflation? Who or what is responsible? Do recessions slow inflation?

With inflation in the United States rising and a recession perhaps already in progress, now is a good time to sort out these issues once again.

Let's first clarify the underlying cause of all inflation.

The single most important principle with respect to inflation is Milton Friedman's now-famous aphorism: "Inflation is always and everywhere a monetary phenomenon," he wrote in *Money Mischief*. Central bankers, economists, and economic journalists should use this as their screensavers. "Inflation occurs," Friedman continued, "when the quantity of money rises appreciably more rapidly than output, and the more rapid the rise in the quantity of money per unit of output, the greater the rate of inflation." This can occur either by actually printing money or by "the magic of the bookkeeper's pen"—creating new deposits on the banks' books.

To understand Friedman's aphorism, consider this thought experiment (which I proposed last year in *The Freeman*): Suppose that tonight, as we sleep, Harry Potter flies across the country and waves his magic wand in a money-doubling charm. The charm has no effect on the amounts of goods and services; it affects only money. Every nickel becomes a dime, every quarter becomes a 50-cent piece, every dollar becomes two, every ten-dollar bill becomes a twenty, every checking account doubles its balance. What would we expect to happen to prices over the next day or two?

Even if no one knew that everybody else's money holdings had also increased, we would expect to see prices rise substantially over the next weeks and months

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as sellers discover that they can charge more for their goods than they could yesterday. Picture automobile dealerships: as people perceived an apparent sudden increase in "wealth"—it's not wealth, it's just money, but they don't know that yet—many of them would head out excitedly to buy a new car. The dealerships would see many more customers than before, willing to pay much more than before. Very quickly the dealers would raise their prices, realizing that they can charge more for the cars on their lots (which are no more numerous than before). A similar process would occur at every store, market, online retailer, and real-estate agency in the land, and very quickly prices of just about everything would approximately double. After all, with the same amount of stuff to buy but twice the money to buy it with, what else would we expect?

Inflation is always and everywhere a monetary phenomenon. That means that if inflation is occurring, the quantity of money must be (or have been) increasing. Correspondingly, if the quantity of money is increasing (more rapidly than output), then inflation must surely result.

Increasing the Money Supply

Next, what increases the quantity of money and how?

In the United States, the Federal Reserve System—and only the Fed—controls the quantity of money. Therefore the Fed—and only the Fed—is responsible for any inflation that occurs in the United States.

Some readers may remember discussions in their macroeconomics courses of "demand-pull inflation" or "cost-push inflation," which suggest that inflation can be caused by too much consumer demand or excessive wage agreements with unions. This is mistaken. Rising consumer demand or wage demands can *transmit* inflation into the economy, but not cause it. The cause is an increase in the quantity of money, and the Fed controls the quantity of money.

(It is true that the Fed's control over the quantity of money is not total; other factors such as the currency ratio and the required and excess reserve ratios influence the quantity of money a little. But their effect is trivial compared to the Fed's control of what is known as the monetary base. The difference is analogous to that between the tide and other factors in determining the water level in a bay: while wind-caused waves and boat wakes alter the water level a little over short periods of time, the level is fundamentally determined by the tide. Furthermore, historical changes in the currency and excess reserve ratios have largely been a response to changes in the monetary base; they have not come about independently.)

Friedman wrote poetically about the Fed's power:

> It's simple to state how the money supply is so centrally controlled. It's hard to believe. . . . [T]welve people out of nineteen—none of whom have been elected by the public—sitting around a table in a magnificent Greek temple on Constitution Avenue in Washington have the awesome legal power to double or to halve the total quantity of money in the country. . . . [T]hey and they alone have the arbitrary power to determine the quantity of what economists call base or high-powered money. . . . And the entire structure of liquid assets, including bank deposits, money-market funds, bonds, and so on, constitutes an inverted pyramid resting on the quantity of high-powered money at the apex and dependent upon it.

Rising consumer demand or wage demands can *transmit* inflation into the economy, but not cause it. The cause is an increase in the quantity of money, and the Fed controls the quantity of money.

Just how does the Fed control the monetary base? It does so through "open market operations." It buys or sells government securities (U.S. Treasury bills and bonds) on the open market, where banks, insurance companies, and investors of all sorts buy and sell those securities, too. When the Fed buys U.S. Treasury bonds or bills from banks it gives the banks money in exchange—new money. This money goes into the banks' reserves and thereby increases the monetary base (of which bank reserves are part).

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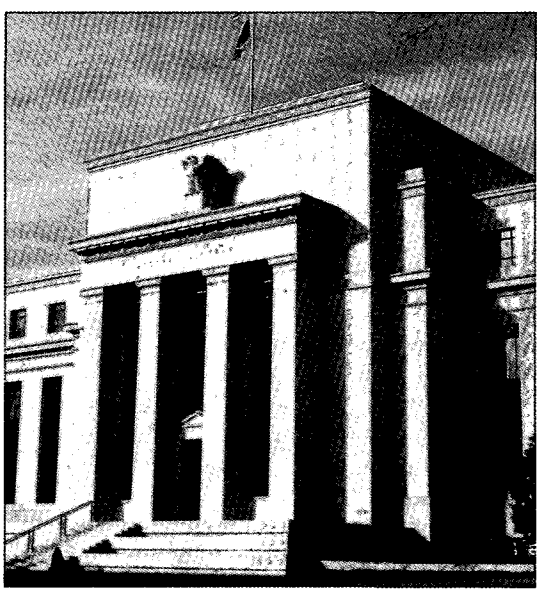
Conversely, when the Fed sells government securities (from its vast holdings of them) to banks, they pay with existing money from their reserves. As they do so, that money leaves the monetary base and disappears. I find it helpful to think of the Fed as a kind of a black hole at the edge of the economy that sometimes draws money out of the economy and makes it disappear, and at other times disgorges money from itself into the economy.

It is really that simple. The Fed controls the quantity of base money by buying and selling Treasury securities.

Open-Market Operations and Interest Rates

Now let's turn to the relationship between the Fed's control of the monetary base through open-market operations and its influence on interest rates. After all, when we read of the Fed's actions, we do not read of its increasing or decreasing the monetary base but of its "raising or lowering interest rates." Based on what we read in the financial news, we might think that the Fed alters or sets interest rates *directly*. But it doesn't. Interest rates are a kind of price, and like all prices they are determined by the interactions of demanders and suppliers. In markets for loanable funds, where the "price" is the interest rate, the demanders are borrowers and the suppliers lenders; their interactions determine (and continuously alter) interest rates. What the Fed does is to *affect* interest rates by its influence on the supply of money. Its influence is indirect.



"[T]welve people out of nineteen . . . sitting around a table in a magnificent Greek temple on Constitution Avenue in Washington have the awesome legal power to double or to halve the total quantity of money in the country."
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Consider, for example, what the Fed does when it "lowers interest rates." It actually lowers its *target* for an important interest rate called the federal funds rate (or fed funds rate). This is the interest rate at which banks lend and borrow reserves to and from one another overnight, as normal business fluctuations push their reserves higher or lower than the quantity they would like to hold. This market is called the federal funds market, and its interest rate has become more important since the Fed began using it as its operating target in 1995.

On September 18, 2007, the Fed dropped its target for this interest rate from 5.25 to 4.75 percent. Since then it has lowered it steadily, reaching 2 percent last April 30. That means the Fed intends to influence supply in the fed funds market so that the interest rate hits the targeted rate. This intention is clear from the page of the Fed's website where it describes its open-market operations. The table there is labeled "Intended federal funds rate" (http://tinyurl.com/6g4yq3). They manage to hit very close to their target most days.

How does the Fed influence supply in the fed funds market so as to hit its interest-rate target? It does so by open-market operations, which it carries out daily, sometimes two or three times daily. When the Fed aims to influence the fed funds rate downward, it buys Treasury securities from banks. The money initially goes into the banks' reserves. The rest of the process must be carried out by the banks.

What banks do with these new reserves depends on the particular situation of each bank, of course. Those that were previously short on reserves will hold on to the new money. But if the Open Market Committee has judged correctly, many banks that receive the new money will find themselves with excess reserves (more than they need to keep on hand) and will seek to lend it out at interest. One market in which they will lend the money is the fed funds market; that is, they will offer to lend reserves to other banks. To induce other banks to borrow the money, they must reduce slightly the interest rate they charge, thereby bidding down the fed funds rate. If the Fed has judged correctly, that downward movement will be just enough to hit its target.

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Linking the Fed to Inflation

At last we are able to link this discussion back to inflation. For the Fed to hold the interest rate down, it must create new money. If it does so too rapidly or for too long, it causes inflation (a general price rise). Recall Friedman's words: "Inflation occurs when the quantity of money rises appreciably more rapidly than output, and the more rapid the rise in the quantity of money per unit of output, the greater the rate of inflation." This is what Joey had in mind with his perceptive question: "If our economy is slowing, yet we are still printing money, won't that only increase inflation even more?"

Money growth will always and everywhere underlie inflation over any long period of time. But in the shorter periods that make up that long term, people's expectations will greatly influence how promptly the underlying cause of inflation—growth of the money supply more rapid than the growth of output—brings about its inevitable effect of rising prices.

Money growth will always and everywhere underlie inflation over any long period of time.

Recall the passage that made Joey scratch his head: "Many other economists think such an inflationary spiral is unlikely because a slowing economy would mean less upward pressure on prices." A slowing economy *might* mean less upward pressure on prices, but it might not. That will depend largely on people's expectations. Let's distinguish three scenarios in which inflation becomes progressively higher.

Three Scenarios

The unperceived-problem scenario—when we don't expect inflation to rise. When the money supply grows only a little faster than output, most people don't notice that prices *in general* are rising. Prices of most things are constantly rising or falling a little due to changing market conditions, so very small general price increases caused by excessive money growth are obscured from view by normal price fluctuations. The new excess money pushes prices up, but slowly and only after a lag.

A central bank can take advantage of people's ignoring such small inflation. As long as they don't notice and therefore don't expect inflation, the central bank can *speed up* its increase in the money supply for a while, with no immediate effect on overall prices. (Indeed, if the monetary authority withdraws newly created money from the economy relatively soon after it's created, price levels overall may not rise at all.) The faster price increases that must result from a sustained speeding up of money growth will occur only after a lag during which people gradually adjust their pricing to this unexpected change. Hence rates of price changes tend to lag behind the higher rates of money growth.

This seems to be the scenario the "many economists" in Joey's article consider us to be in at present. In the short run a slowing economy would lead people to raise prices less than they otherwise would, *until and unless they start to worry about getting behind an inflation.* If they are not worried about inflation—if they don't expect it—then during a recession many businesses may lower prices to boost lagging sales, and some employees may hold off on asking for raises until business improves.

The problem scenario—when we worry about rising inflation. But the central bank cannot long accelerate the growth rate of the money supply without driving up prices. Eventually people holding the new money do bid up prices; other people start to notice that prices in general are increasing; and everyone starts to expect further increases. When people start to worry that the prices they receive (their wages and salaries, or prices for what they sell) are not rising as fast as the prices they pay (for food and clothing, or for labor and supplies), then they all start to push up the prices they charge in order to keep up. Consumers ask for pay increases, and businesses increase the prices they charge. The rate of price changes tends to catch up to the higher rates of money growth.

Of course our salaries and wages are input costs to the businesses that pay us, so when we demand higher pay to keep up with rising prices, we increase our employers' costs, motivating them to increase their prices to keep pace. This is the dreaded inflationary spi-

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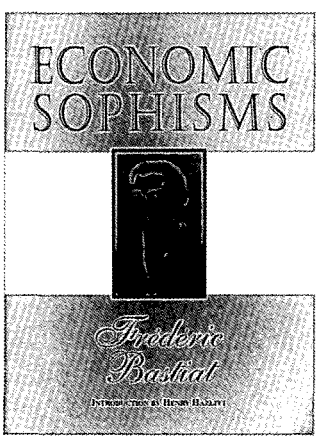
ral. Once it begins, it can be hard for the monetary authority to convince any of us to slow it down. No one wants to be the first to risk falling behind.

It was this scenario in which the U.S. economy found itself in the 1970s, when we had "stagflation": a long recession, yet with high inflation. Here, too, the slowing of the economy *might* keep inflation rates a bit lower than they otherwise would be, but it certainly would not stop inflation. In fact, another current of causation runs the other way. One of the inevitable consequences of inflation is to degrade the price system's function of coordinating people's efforts and enterprises. By impairing that coordination, inflation slows economic growth.

The big-problem scenario—when we all try to get ahead of increasing inflation. When people get concerned about their money's loss of value as prices rise, they strive to change the prices and wages they receive *in anticipation* of future inflation. When expectations are like this, rates of price changes can outrun rates of money growth. The slowing of the economy that must certainly result from a bad inflation such as this will do nothing to slow that inflation.

Presumably the "many other economists" referred to in the *Washington Post* article believe that we are still in the unperceived-problem scenario. Perhaps we are. But if Fed chairman Ben S. Bernanke and his colleagues on the Open Market Committee create too much money, we'll surely switch into the problem scenario. If we do, Bernanke will be embarrassed, because he subscribes to Milton Friedman's famous principle.



Economic Sophisms

By Frédéric Bastiat

Introduction by Henry Hazlitt

Although written 150 years ago, Bastiat's devastatingly accurate attacks on the illogical, self-serving arguments of protectionists remain both relevant and entertaining. Among the gems in *Sophisms* are "The Negative Railroad," "Petition of the Candlemakers," and "The Physiology of Plunder."

Perhaps the best recommendation for *Sophisms* comes from renowned journalist and FEE founding trustee Henry Hazlitt. In his introduction to the book, Hazlitt declares:

We could use more Bastiats today. We have, in fact, desperate need of them. But we do, thank Heaven, have Bastiat himself, . . . and the reader of these pages will not only still find them, as Cobden did, "as amusing as a novel," but astonishingly modern, for the sophisms he answers are still making their appearance, in the same form and almost in the same words, in nearly every issue of today's newspapers.

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328 pages, paperback

$11.00

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Sad Democracy

BY DONALD J. BOUDREAUX

During this presidential election year, it's commonplace to sing paeans to the wonders of democracy. I, though, have never been able to join in this chorus. The principal reason is that I put no intrinsic value on democracy; what I value intrinsically is individual liberty. Democracy might have instrumental value if it is part of an array of social institutions that promote liberty (although, as the works of my colleagues James Buchanan and Gordon Tullock make clear, that case is far from obvious), but democracy as an end in itself has always left me cold.

This confession often brings harsh reactions. A typical response is, "What?! Don't you think that people are capable of choosing wisely for themselves?" (The unstated subtext is that I am either an elitist or that I have sympathies for Robert Mugabe-like tyrants.) And my answer is always the same: "Of course I think that people are capable of choosing wisely for themselves—which is why I want to minimize the subjection of individuals to any outside force, including the majority."

My criticizing the use of democracy for the vast majority of issues to which it is today applied is a defense of personal ability and responsibility.

I trust my neighbor to know what size toilet tank is best for him and his family. I trust my neighbor to know whether or not he should smoke cigarettes (or pot); to wisely choose how much to save for his retirement; to decide if the car made in Korea is a better deal for him than is the car made in Detroit; to educate his children. For these and countless other decisions my neighbor does not need the forced "assistance" of me and others. My criticizing the use of democracy for the vast majority of issues to which it is today applied is a defense of personal ability and responsibility.

Another reason democracy leaves me uninspired is that it is aesthetically grotesque. The sights and sounds of candidates pandering to voters have all the appeal, to me at least, of watching washed-up celebrities on late-night television making obviously phony pitches for reverse mortgages and magical mattresses.

But there's this difference: relatively few people—even those who fall for the pitches—regard the celebrities as anything more than paid mouthpieces. In politics, though, the Barack Obamas, Hillary Clintons, George Bushes, John McCains, and Ronald Reagans are too often treated as selfless divines, secular faith healers whose will and touch will cure incurable problems.

How else to explain the ever-present reaching out of hands by crowds of people who long for just a touch of the president? How else to explain the thunderous applause that typically erupts from audiences whenever a famous politician pronounces the most banal platitude? How else to understand the widespread desire for the president to appear personally at disaster scenes and to hug (for the cameras!) a handful of victims' relatives?

Political Delusion

I recently got an unexpected glimpse into the abyss of political delirium after an article of mine was published in the May 24 edition of the *Wall Street Journal*. In that article, I pointed out what struck me as an obvious contradiction in Hillary Clinton's campaign rhetoric—namely, I argued that Senator Clinton's complaint that her bid for the Democratic nomination was

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thwarted by sexism is at odds with her insistence that she would be a stronger candidate than Barack Obama in the general election.

I expressed no preference for Senator Obama or for Senator Clinton; nor did I offer a plug for or against the GOP candidate, John McCain. My point was a logical one. It was political only insofar as exposing *any* candidate's inconsistencies helps to reveal the true nature of politics.

But my oh my! Within 48 hours my e-mail inbox was filled with over 300 responses from strangers. All but one was negative. (I didn't think that this outcome was statistically feasible, but, well, I was wrong.) What follows are just four of the responses—and only ones that are fit for inclusion in a family-friendly publication:

> Your educational background is in economics. So I have to tell you, your opinions in this area should have never seen the light of day. You want to comment on this topic, have a sex change operation, and live in this world for 10 years. Then, and maybe then, I will listen to your opinion. In the mean time, please shut up.

> One of the biggest tactics of sexists is to dismiss a woman's point of view and *that is just what you are trying to do*. . . . You should look more deeply into yourself and ask yourself "what is so threatening to me about a woman in power that I have to try to diminish her and her concerns?" Be a *real* man and be honest with your fears of powerful women and maybe this world can move a little step closer to equity for all.

> Sir, and I say "Sir" with great reservation as I believe the homeless person on the street deserves more respect than you. I can only wonder what the men in other countries think of the male attitude in this one. It's attitudes like yours that contributes to battered women. I keep thinking it will change, but until we manage to elect a President like Hillary, it likely will not happen.
>
> Rise Hillary Rise!!!!!!!!

It is sad that so very many people seek salvation through politics and refuse to understand that many individuals, myself included, want neither to be saved nor persecuted by the state.

Biases of Politics

I cannot read such things without experiencing profound sadness—for it *is* sad that many people avoid challenging an argument on its own merits and, instead, treat any perceived lack of enthusiasm for their favorite candidate as a sign of either intellectual failure or moral turpitude. It *is* sad that so many people believe that secular salvation is possible through the election of a particular man or woman to political office. It *is* sad that so many people still believe that collective interests exist for all persons who happen to share the same kinds of genitalia or who happen to share the same skin color—and that men have interests fundamentally opposed to those of women and that "whites" have interests fundamentally opposed to those of "blacks."

It *is* sad—extraordinarily and searingly sad—that so very many people seek salvation through politics and refuse to understand that many individuals, myself included, want neither to be saved nor persecuted by the state. We just want to be left alone by busybodies so that we can be part of building a great spontaneous order of free and prosperous people.

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Dry-Cleaning Economics in One Lesson

BY E. FRANK STEPHENSON

Another day, another news story about economic wackiness. Gas prices rise, the dollar sinks, and stores are limiting rice sales. What could be next? Clothes hangers.

Yes, clothes hangers. Marie Sledge, co-owner of Rome (Georgia) Cleaners, states, "Hangers last year at this time were $28 a box, where now they are $56." News reports indicate that cleaners in Springfield, Missouri; Birmingham, Alabama; and Harlem are also encountering doubling hanger prices. In response, many cleaners are posting signs in their shops encouraging customers to return used hangers.

Hangers can't, even if combined with government subsidies, be converted into biofuels. So what is causing the rapid increase in hanger prices? Government, of course, though in this case it's the trade bureaucrats at the Department of Commerce rather than the folks behind other debacles in the news these days.

> What is causing the rapid increase in hanger prices?

In a March 19 news release the Department of Commerce "announced its affirmative preliminary determination in the antidumping duty investigation on imports of steel wire garment hangers from the People's Republic of China." Translation: The government will now impose tariffs on hangers imported from China. The tariffs vary by supplier, ranging from a lightly starched 33 percent to a truly stiff 221 percent. With hanger prices potentially tripling because of tariffs, it's easy to understand the disruption facing dry cleaners.

Why would the Commerce Department impose such taxes on imported hangers? The key bit of bureaucratese is the press release's "antidumping duty" clause. Prompted by a complaint from M&B Metal Products Company of Leeds, Alabama, the only domestic metal-hanger manufacturer, Commerce analyzed prices charged by Chinese hanger producers to determine if they were below "fair value." Calling anything other than a price arrived at through voluntary exchange between the buyer and seller "fair value" is perverse. But the U.S. government, in its infinite wisdom, has defined "unfair value" as the price charged by foreign firms selling below their cost of production or below the price they charge in their domestic markets.

In any event, economist Russell Roberts, in *The Choice*, describes Commerce's process as "arbitrary" (hardly surprising, given the slipperiness of "fair value") and reports that between 1986 and 1992 Commerce found dumping in 97 percent of the 251 cases it investigated. In a 2002 paper, Cato Institute scholars Brink Lindsey and Dan Ikenson elaborated: "In a depressingly wide variety of circumstances, a foreign producer can charge prices in the United States that are identical to or even higher than its home-market prices and still be found guilty of dumping." It therefore comes as no surprise that Commerce determined that Chinese producers have been dumping their hangers on the United States market.

The notion of dumping, even without arbitrariness by Commerce apparatchiks, is suspect. Since the raison

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The fear is that the alleged dumping is a scheme to bankrupt domestic producers, shut them down, and leave U.S. consumers vulnerable to large price hikes.
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d'être of firms is to make profits for their owners, there should be a strong presumption that firms will not sell below cost, regardless of the Commerce Department's Byzantine calculations. And if, glory be, some foreign firm does choose to sell below its production cost, we should welcome the gift rather than ensnare the givers in a thicket of questionnaires, documents, and legal mumbo jumbo.

In the case at hand, it's unlikely that the Chinese firms were selling below cost. M&B president Milton Magnus states, "The price [Chinese firms] pay for wire is about 30 percent less than what we pay, [and] [t]hey're paying workers 83 cents per hour." (M&B's ire about competition from cheap foreign labor seems rather selective because, according to *American Drycleaner*, it operates a hanger-manufacturing plant in Piedras Negras, Mexico.) If true, the Chinese firms might well be able to charge a much lower price than M&B and still not be selling below their cost of production.

Although firms might rationally choose to sell an item at lower prices in foreign markets, there's strong reason to doubt Chinese hanger manufacturers would do so. Transportation costs for weighty and bulky items like hangers are not trivial. Moreover, one might expect price-discriminating firms to charge lower prices in *poor* countries, but not in wealthier ones such as the United States (as is done with pharmaceuticals). But as I said about the Chinese selling at a loss, glory be if they are willing to price-discriminate to our benefit.

Of course, the fear is that the alleged dumping is a scheme to bankrupt domestic producers, shut them down, and leave U.S. consumers vulnerable to large price hikes that will recoup the losses incurred by selling below cost. Among the many conceptual problems with such a notion is that it would be easy for U.S. customers to find alternative international suppliers or for firms in the United States to restart their production when the predatory Chinese firms jacked up their prices. In the case of the Chinese hangers, the Depart-

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ment of Commerce indicates that there are more than a dozen Chinese hanger manufacturers, so it is hardly a given that, even if they desired to do so, they could sufficiently coordinate their activities to cartelize the international hanger market.

Overlooking the Unseen

The department defends antidumping duties as being necessary to protect American jobs. Indeed, news reports indicate that M&B has hired about 50 new workers and may double its workforce over the next two years. Alas, as is so often the case, such thinking ignores Henry Hazlitt's admonition in *Economics in One Lesson* to "trac[e] the consequences of [a] policy not merely for one group but for all groups." In the case of the great hanger crisis of 2008, other groups lose jobs in response to the protectionism that enriches M&B and its employees.

News reports indicate that higher hanger prices will cost cleaners $4,000 or more per year. Suppose that cleaners try to pass the increased cost of hangers along to their customers. Charging an extra, say, 10 cents per item will cause at least a few customers to reduce the number of items they send out for cleaning. If so, cleaners will need fewer employees, and M&B's jobs will have come at the expense of cleaners' employees. (Similar logic would apply if cleaners reduced their workers' hours or wages in response to higher hanger prices.)

Even if customers grudgingly pay the extra dime without reducing their cleaning, they will have less to spend elsewhere. Although that may seem like a trivial amount, the cumulative impact of many consumers having perhaps a dollar per week less to spend on other goods and services may reduce employment in those occupations.

Another possible result of the hanger tariff is that cleaners will earn less profit rather than raise their prices or reduce workers' hours or wages. Again, there would be unseen job losses since it is now the cleaners' owners who would have less income available to spend on other goods and services. Of course, if the dry cleaners in an area do not pass along the higher costs, any marginally profitable firms will close, eliminating jobs for all their employees.

Another possible result of the hanger tariff is that cleaners will earn less profit rather than raise their prices or reduce workers' hours or wages.

The Costs of Intervention

Brandon Fuller, writing May 21 on the Aplia Econ blog (http://tinyurl.com/6dk67x), provides a back-of-the-envelope calculation of the cost of the antidumping hanger tariff. Multiplying the $4,000 per-firm cost by the 30,000 dry-cleaning firms in the country yields a cost of $120 million. To put the $120 million figure in perspective, the tariff is expected to cost some $212,765 for each of the 564 jobs saved.

The lesson is that the misguided attempt to save jobs for domestic hanger manufacturers comes at the expense of other domestic employment. Failure to base policy on Hazlitt's wisdom has led to the substitution of political competition and bureaucratic fiat for the market process. Not only has M&B enriched itself by using the political process to stifle competition from foreign firms, it has also taken advantage of the reduced competition by raising its price by more than 10 percent. (See Stan Diel, "Hanger Costs Belt Dry Cleaners," *Times-Picayune*, April 15, 2008, http://tinyurl.com/63nhbs.)

Talk about being taken to the cleaners.

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The "Risk" of Liberty: Criminal Law in the Welfare State

BY MICHAEL N. GIULIANO

The word *crime* has come to include an ever-increasing assortment of activities that do not fit the intuitive meaning of the word. The law has criminalized behavior deemed risky or undesirable and actions or status having only vague relationships to undefined harms. The lawmaking process under our welfare state is gripped by an incessant need to eliminate risk. This forecloses the possibility of significant liberty.

Within hours of that daily en masse recitation by schoolchildren that references "liberty and justice for all," a certain public dissonance was revealed in Alaska in 1994, when railroad project manager Edward Hanousek found himself under arrest and facing criminal charges and a prison term. The offense putting him in that predicament took place at his worksite while he was off duty. It was only later he would learn he had become a criminal because petroleum was accidentally discharged after a backhoe operator working for a contractor on a railroad rock-quarry project had inadvertently damaged a pipeline.

Because Hanousek managed the project, he was held *criminally* liable for the accident. He was convicted of negligently discharging a pollutant and punished with a six-month prison term, six months in a halfway house, and six months of supervised release. The Supreme Court refused to consider his appeal, with only Justice Clarence Thomas and Justice Sandra Day O'Connor believing there was a due-process issue meriting the Court's attention.

The lawmaking process under our welfare state is gripped by an incessant need to eliminate risk. This forecloses the possibility of significant liberty.

The legal dangers are not limited to those working in a managerial capacity. Bartending is everywhere a hazardous activity not solely because of unruly patrons, but because bartenders are under the imminent threat of arrest for the sale of alcohol to minors. The location of a particular night's sting operation is the only determinant of which bartender faces the inevitable criminal charge. The purchaser's use of fake identification may, in some circumstances, be a defense for the accused, although he or she might shoulder the burden of proof.

Two bartenders at different establishments, including a 69-year-old woman, were charged in Old Forge, New York, in 2006 after a 20-year-old man they had served later died in a snowmobile accident. These legal actions reflect the governmental view that another person must be ruined for any disaster to be complete.

A corporate executive is similarly liable to prosecution at any moment for "crimes" requiring no guilty mental state and where even prosecutors are unsure of what evidence legally establishes liability for the particular offense. Ambitious prosecutors are often successful at making a name for themselves by extending the reach of the criminal law. We saw then-U.S. Attorney Rudy Giuliani's infamous staged handcuffing and arrest of three investment bankers he accused of

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insider trading. Former New York attorney general Eliot Spitzer bullied and prosecuted anyone who might serve as public-relations fodder for his quest for political power. (After becoming governor, he was caught patronizing a prostitution ring and had to resign.)

Business transgressions are routinely treated as criminal acts if not by statute, then by practice and interpretation. As Nicole Gelinas of the Manhattan Institute points out, jurors sitting in judgment of Kenneth Lay later admitted their ignorance of the legal standard required for his conviction on fraud charges. They used a standard of negligence when the actual standard for fraud is, at the least, some minimal knowledge and intent.

For another illustration, dare we consider the predicament of a pain sufferer when his doctor fails to adequately relieve suffering because he fears criminal prosecution for recklessly prescribing narcotics? As for those who seek painkillers but who may not wish to see a doctor or receive traditional medical assistance, a charge of criminal possession awaits. Drug prohibition becomes a capitulation to the totalitarian impulse. It may safely be said that liberty has ceased to exist under a criminal framework such as this.

American Criminal Law and "Risk Administration"

Our criminal law has descended into a system of punishing risks instead of the malicious acts toward others that fit within the common understanding of what a crime is. In the twentieth century, criminal law became "risk administration," says law professor Markus Dubber. This system is a creature of the welfare state.

Changing values are reflected in a changed legal code. As late as the end of the eighteenth century, crime and sin were coterminous in the public mind, writes legal historian J. A. Sharpe. Risk-based lawmaking and the "nanny state" now construct the 21st-century equivalent of sin. Actions are seen through a lens that magnifies risk. Today the effects that criminal legislation seeks to ameliorate are more remote and uncertain. They indicate something other than malice on the part of the actor, while they intrude into the realm of personal decisions one could plausibly justify if freedom were an ideal.

The history of our own civilization reveals the notion of criminal law born of the "passion of resentment at injury or voluntary wrong," Professor Ian Simpson Ross writes. True to form, under the old Anglo-Saxon law, government was not a central force in the criminal process; vindication was left to the aggrieved party. Restitution became the accepted punishment in most cases. Of course, not all criminals were able or willing to pay or otherwise compensate. In these cases, as former British judge Anthony Babington tells us, the law served no further restraint and allowed that the perpetrator might simply be "slain like a wild animal." (The principle of proportionality was lacking.)

The law's traditional requirement of *mens rea*, or an evil mind, was the legal foundation of an act's criminality. The corollary to this is the necessity of an overt act, or *actus reus*, comprising the evil deed.

One of the defining characteristics of Anglo-American law was its individualistic focus. This is an internal focus that revolves around the criminal's malicious act. The disappearance of the notion of a crime as a private wrong involving genuine malice is central to the developments in modern law. In modern times crime is viewed as an offense against society. The government prosecutor is deemed to represent "The People," despite the oddity that juries, far more representative of the people than prosecutors, are allowed little substantive power in the process. "The People," in reality, becomes a propaganda term.

The law's traditional requirement of *mens rea*, or an evil mind, was the legal foundation of an act's criminality. The corollary to this is the necessity of an overt act, or *actus reus*, comprising the evil deed. The criminal-lawmaking mindset today legislates toward an external standard that judges results and not internal malice. The concept of negligence and the motivations underlying

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its use in tort law have bled into the criminal law. Freedom is greatly diminished when individually blameless, private, and nonmalicious conduct is so routinely punished rather than subjected to civil remedies.

Utilitarianism and Its Effects

With the growth of secularism, sin and crime were no longer fused in the public mind, but the utilitarian rationale for public policy became the predominant molding influence. The main component of utilitarianism holds that the rightness or wrongness of an action is determined purely by its consequences. In some variants of the philosophy, the "right" consequences must be maximized by coercing, if necessary, the behavior that will bring them to fruition.

Classical utilitarianism stands in contrast to the traditional theory of inherent moral rights and obligations, Professor Raymond G. Frey writes. Actions are construed not as being right or wrong the moment the actor's intent is formed and action commences, but by what are often remote and potential consequences of the behavior. Modern policy analysis frequently serves as justification for sweeping laws based on the policies' general societal effects without regard to any limiting principle.

This consequentialism is the residue of utilitarianism on criminal law. An act is criminalized because of a slightly elevated risk the behavior creates and the particular political causes of the moment. The great utilitarian Jeremy Bentham posited that the good is the "greatest happiness of the greatest number." Morality becomes that which the government must ensure through its manipulation of "aggregate happiness." Morality is thus defined by results, and the significance of human freedom and conscience is erased. The welfare state's raison d'être then requires the regulation of everything.

Bentham's happiness principle expands the conception of harm and therefore the need for government coercion. The law's reach under the utilitarian mentality is predicated on the belief that the ends justify the means. This belief, as F. A. Hayek wrote, is "in individualist ethics regarded as the denial of all morals. In collectivist ethics it becomes necessarily the supreme rule." Criminal-law collectivism accompanies the economic collectivism of the welfare state.

Bentham would forcefully argue the benefits of a public prosecutor, further weakening the notion of crime as a wrong engendering resentment in a victimized party. Without a public prosecutor, a great many of the overreaching laws existent today would be impossible; there would be no resentful private party to bring the victimless criminal into court. J. A. Sharpe has shown that in England most felony prosecutions were once brought by the victim or a family member.

Bentham's happiness principle expands the conception of harm and therefore the need for government coercion. The law's reach under the utilitarian mentality is predicated on the belief that the ends justify the means.

The public prosecutor in England was seen by certain citizens as portending the advent of a new legal regime; some suspicion sprung up due to its implicit threat to freedom and the association of public prosecution with the institutions of authoritarian regimes. As related by Professor Randall McGowen, "[P]rivate prosecutions were seen as important safeguards of English freedom."

Under the strict letter of the law as it now operates, the true risk of an action is never determined. Behavior is made criminal because in the lawmaker's view it may in some instances lead to a certain injury. A person, for example, might be charged with possessing a weapon regardless of the fact that there is no resulting injury, the violator's intentions were innocent, and the actions were cautious and reasonable under the circumstances. The potential-risk offense does not require the prosecutor to prove any particular recklessness in the same way that a personal-injury plaintiff must prove the defendant's negligent conduct.

A sibling of the potential-risk offense is the so-called public-welfare crime, a crime of the sort that ensnared

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Edward Hanousek. Here, there is an injury of a sort (the environmental contamination in that case), but the violator displays no "vicious" or grossly negligent state of mind. These crimes are based on strict liability; the lack of fault is no defense.

Occasionally there is a certain ambivalence on display within the legal system over the confused role of negligence in the criminal law and its implications. It took several years and a ruling from New York's highest court to overturn the conviction of a 17-year-old charged with criminally negligent homicide for three fatalities resulting from a car accident caused by the excessive speed at which he was driving. The teenager, driving to a lake with other teens in the same vehicle, exceeded 70 miles per hour on a twisting stretch of road that had a speed limit of 55 miles per hour. He lost control of the vehicle on one of the turns.

The Court of Appeals, in *People v. Cabrera*, vacated the conviction, finding that speeding, without anything else, did not constitute the "morally blameworthy" conduct and *mens rea* required for such a serious felony conviction. Of course, as negligence involves conduct that, as Justice Oliver Wendell Holmes observed, is by definition not truly blameworthy, it is unclear how courts, attorneys, and the police could ever consistently enforce or interpret such vague and nondescript offenses.

Using the concept of negligence to simply shift the monetary costs to the party with deeper pockets, as often occurs in personal-injury suits, is far removed from its use to impose a criminal sanction. Wrote Supreme Court Justice Frank Murphy, dissenting in *U.S. v. Dotterweich*: "It is a fundamental principle of Anglo-Saxon jurisprudence that guilt . . . is not lightly to be imputed to a citizen who . . . has no evil intention or consciousness of wrongdoing." Similarly, English jurist William Blackstone declared that for an act to be considered a crime, there must be a "vicious will." Nevertheless, the consequentialist influence, promoting the idea that indirect and unlikely consequences should determine the legality of behavior, has expunged the distinction between the pure accident of tort and criminal malice. The misfortune of those such as Hanousek who are punished for accidents or the millions of those punished for arbitrarily defined and victimless crimes highlight the very real absence of any evil intention on the part of so many violators and "criminals."

John Stuart Mill devised the "harm principle" as a limitation on what the government may rightly prohibit. The principle is problematic, though, as legal philosopher Joel Feinberg pointed out, because "the harm principle may be taken to invite state interference without limit" as no action is without some possible negative effect. When any risk itself is to be punished, this "harm principle" becomes irrelevant.

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"Social Perfection" in the Early Twentieth Century

If we wanted some explanation for the development of these laws, the early twentieth century's peculiar utopian ideologies and movements seem to be a reasonable start. Rooted in "science" and a desire for social perfection—with a focus on vice, public health, eugenics, drugs, and alcohol—these movements used law to invade the private sphere in the name of the public good.

The origin of such law is in the American tradition of searching for a "holy utopia," writes *Freeman* columnist Thomas Szasz. The American passion for moral reform, combined with the "medicalization of morals," leads to the modern "crusades against disease." Early twentieth-century preachers of the progressive, scientific mindset would remind their parishioners of their duty to improve the human race. Improving it, as one might expect, meant criminalizing more actions and imprisoning more people.

As author Christine Rosen has detailed, the "social gospel" of the period would push the legislatures to tackle all of the impurity of the times, including prostitution, gambling, and drug and alcohol use. Rev. Walter

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Taylor Sumner of Chicago excoriated rampant prostitution, drug use, and "dance halls," and would extol to other progressive-minded clergymen the benefits of "eugenic marriage." These concerns led to unfortunate undertakings that Carrie Buck, whose forced sterilization was made infamous by the Supreme Court's decision in *Buck v. Bell*, experienced all too well.

The intolerance of risk and vice that the consequentialist dogma imposed left us crimes that punish status as an indicator of risk. One of the crimes the movement enshrined as a law-enforcement priority is the drug offense. In 2006 these offenses incapacitated over 343,000 people within "corrections" facilities, according to the Bureau of Justice Statistics. Driving under the influence is another. Such an offense requires no injury to create liability, and no particular negligence need be proven. Blood-alcohol content becomes the determinant of what is deemed criminal behavior. The actual recklessness or criminality involved in the behavior is not determined. These laws are an end-run around the law of personal injury, property damage, and manslaughter.

The lawmaker's call to ensure welfare and safety by means of coercion is never long silenced. Imagine Congress and the federal agencies making no new laws or regulations in 2009. The horror of it, of course, repels the conscience.

Within the English and American legal and constitutional tradition, there are assumed to exist personal liberties that either preexist or supersede government power. The "greatest happiness of the greatest number" rule is, in contrast, a principle declaring that the ends justify the means. This elevates a consequentialism that invents responsibility for attenuated effects and thus removes all limitation on the scope of law's coercive reach. The trek toward greater utilitarianism was in avowed opposition to the natural rights that, in the words of legal scholar Edward Corwin, once "morally exonerated the humblest citizen in defiance of the highest authority."

A better alternative is the principle that every crime should require as one of its elements some malicious, knowingly injurious conduct toward an identifiable victim that would prompt a desire for retribution.

As historian Carl Ludwig von Bar wrote, a remote effect on society should not serve as a basis for criminal liability. What principle should limit the scope of criminal law? A requirement of harm clearly serves as a weak restraint on lawmakers. A better alternative is the principle that every crime should require as one of its elements some malicious, knowingly injurious conduct toward an identifiable victim that would prompt a desire for retribution. It must reject outright offenses that vitiate personal conscience and intrude on privacy. With this limiting principle as guide, perhaps a new framework for the penal law will shrink its inflated boundaries back within the perimeters necessary for a free society.

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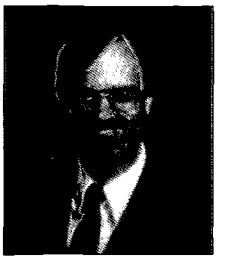

Equality, Markets, and Morality

BY BURTON FOLSOM, JR.

The subject of "equality" is the source of much political debate. Ever since the founding era, free-market thinkers have argued for equality of opportunity in the economic order. Equality, in other words, is a framework, not a result. In modern terms the goal is a level playing field. Government is a referee that enforces property rights, laws, and contracts equally for all individuals.

What the free-market view means in policy terms is no (or few) tariffs for business, no subsidies for farmers, and no racism written into law. Also, successful businessmen will not be subject to special taxes or the seizure of property.

In America this view of equality is enshrined in the Declaration of Independence ("all men are created equal and are endowed by their creator with certain inalienable rights") and the Constitution ("imposts and excises shall be uniform throughout the United States" and "equal protection of the laws"). Much of America's first century as a nation was devoted to ending slavery, extending voting rights, and securing property and inheritance rights for women—fulfilling the Founders' goal of equal opportunity for all citizens.

Thomas Sowell

Progressives and modern critics of equality of opportunity have launched two significant criticisms against the Founders' view. First, that equality of opportunity is impossible to achieve. Second, to the extent that equality of opportunity has been tried, it has resulted in a gigantic inequality of outcomes. Equality of *outcome*, in the Progressive view, is desirable and can only be achieved by massive government intervention. Let's study both of these objections.

To some extent, of course, the Progressives have a valid point—equality of opportunity is, at an individual level (as opposed to an institutional level) hard to achieve. We are all born with different family advantages (or disadvantages), with different abilities, and in different neighborhoods with varying levels of opportunity. As socialist playwright George Bernard Shaw said on the subject, "Give your son a fountain pen and a ream of paper and tell him that he now has an equal opportunity with me of writing plays and see what he says to you."

What the Progressives miss is that their cure is worse than the illness. Any attempt to correct imbalances in family, ability, and neighborhood will produce other inequalities that may be worse than the original ones. Thomas Sowell writes, "[A]ttempts to equalize *economic* results lead to greater—and more dangerous—inequality in *political* power." Or, as Milton Friedman concluded, "A society that puts equality—in the sense of equality of outcome—ahead of freedom will end up with neither equality nor freedom. The use of force to achieve equality will destroy freedom, and the force, introduced for good purposes, will end up in the hands of people who use it to promote their own interests."

Failure During the New Deal

Sowell's and Friedman's point is illuminated by the failed efforts of the federal government to reduce inequalities during the New Deal. In the early 1930s the United States had massive unemployment (sometimes over 20 percent). In 1932 President Herbert Hoover supported the nation's first relief program: $300 million was distributed to states. This was not a transfer from richer states to poorer states but a political grab by most state governors to secure all they could. Illinois

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played this game well and secured over $55 million, more than New York, California, and Texas combined.

Massachusetts, with almost as many people as Illinois, received zero federal money. Massachusetts had much poverty and distress, but Governor Joseph Ely believed states should try to supply their own needs and not rush to Washington to gain funds at someone else's expense. Ely therefore promoted a variety of fundraising events throughout his state to help those in need. "Whatever the justification for [federal] relief," Ely noted, "the fact remains that the way in which it has been used makes it the greatest political asset on the practical side of party politics ever held by any administration."

In 1935 President Franklin Roosevelt confirmed Ely's beliefs by turning the Works Progress Administration (WPA), which he had established, into a gigantic political machine to transfer money to key states and congressional districts to secure votes. Roosevelt and his cohorts used the rhetoric of removing inequalities as a political cover to gain power. Reporter Thomas Stokes won a Pulitzer Prize for his investigative research that exposed the WPA for using federal funds to buy votes.

The use of tax dollars, then, to mitigate inequality failed because—whatever the good intentions—the funds quickly became politicized.

Presidential (and congressional) authority to tax and to transfer funds from one group to another also proved to be a dangerous centralization of power. Taxation increased both in size and complexity. The IRS thus became a weapon a president could use against those who resisted him. "My father," Elliott Roosevelt observed of his famous parent, "may have been the originator of the concept of employing the IRS as a weapon of political retribution."

Sowell and Friedman indeed recognized that efforts to remove inequalities would create new inequalities, perhaps just as severe, and would also dangerously concentrate power in the hands of politicians and bureaucrats. But Sowell and Friedman have readily conceded that when markets are left free, the inequality of outcomes is not necessarily morally justified. In other words, some people—through luck or inheritance—become incredibly rich and others, who may have worked harder and more diligently, end up barely earning a living. Rewards, as F. A. Hayek, among others, has noted, are "based only partly on achievements and partly on mere chance." Societies are more prosperous under free markets, but individual success and failure can occur independently of ability and hard work.

Progressive Claims in Light of History

What the historical record does seem to demonstrate is that the richest men in American history have been creative entrepreneurs who have improved the lives of millions of Americans and have achieved remarkable upward mobility doing so. For example, the first American to be worth $10 million was John Jacob Astor, a German immigrant and a son of a butcher. Astor founded the largest fur company in the United States, transforming tastes and lowering costs in clothing for people all over the world.

Societies are more prosperous under free markets, but individual success and failure can occur independently of ability and hard work.

John D. Rockefeller, the first American to be worth $1 billion, was the son of an itinerant peddler. Yet Rockefeller, with little education or training, went into the business of refining oil and did it better than anyone in the world. As a result, he sold the affordable kerosene that lit up most homes in the world. (He had a 60 percent world market share in the late 1800s.)

Henry Ford, the son of a struggling farmer, was the second American billionaire. He used the cheap oil sold by Rockefeller and cheap steel that was introduced by immigrant Andrew Carnegie to make cars affordable for most American families. The most recent wealthiest men in the United States—Sam Walton and Bill Gates—both came from middle-class households and both added much value for most American consumers.

Free markets may yield odd results and certainly unequal outcomes, but the greater opportunities and prosperity have made the tradeoff worthwhile for American society.

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"Free Market" Reforms and the Reduction of Statism

BY KEVIN CARSON

Objectivist scholar Chris Sciabarra, in his brilliant book *Total Freedom*, called for a "dialectical libertarianism." By dialectical analysis, Sciabarra means to "grasp the nature of a part by viewing it systemically—that is, as an extension of the system within which it is embedded." Individual parts receive their character from the whole of which they are a part, and from their function within that whole.

This means it is a mistake to consider any particular form of state intervention in isolation, without regard to the role it plays in the overall system. (See Sciabarra's "Dialectics and Liberty, *The Freeman*, September 2005, http://tinyurl.com/6pa6pg.)

It is a mistake to consider any particular form of state intervention in isolation, without regard to the role it plays in the overall system.

Another libertarian, blogger Arthur Silber, contrasts dialectical libertarianism with what he calls "atomistic libertarianism," whose approach is to "focus on the basic principles involved, but with scant (or no) attention paid to the overall context in which the principles are being analyzed. In this manner, this approach treats principles like Plato's Forms. . . ." Atomistic libertarians argue "as if the society in which one lives is completely irrelevant to an analysis of any problem at all."

To determine the function a particular form of state intervention serves in the structure of state power, we must first ask what has been the historical objective of the state. This is where libertarian class analysis comes in.

The single greatest work I'm aware of on libertarian class theory is Roderick Long's article, "Toward a Libertarian Theory of Class" (*Social Philosophy & Policy*, Summer 1998). Long categorizes ruling-class theories as either "statocratic" or "plutocratic," based on the respective emphasis they place on the state apparatus and the plutocracy (the wealthy "private-sector" beneficiaries of government intervention) as components of the ruling class.

The default tendency in mainstream libertarianism is a high degree of statocracy, to the point not only of (quite properly) emphasizing the necessary role of state coercion in *enabling* "legal plunder" (Frédéric Bastiat's term) by the plutocracy, but of downplaying the significance of the plutocracy even as *beneficiaries* of statism. This means treating the class interests associated with the state as ad hoc and fortuitous. Although statocratic theory treats the state (in Franz Oppenheimer's phrase) as the organized political means to wealth, it still tends to view government as merely serving the exploitative interests of whatever assortment of political factions happens to control it at any given time. This picture of how the state works does not require any organic relation between the various interest groups controlling it at any time, or between them and the state. It might be

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them and the state. It might be controlled by a disparate array of interest groups, including licensed professionals, rent-seeking corporations, farmers, regulated utilities, and big labor; the only thing they have in common is that they happen to be currently the best at latching onto the state.

Murray Rothbard's position was far different. Rothbard, Long argues, saw the state as controlled by "a primary group that has achieved a position of structural hegemony, a group central to class consolidation and crisis in contemporary political economy. Rothbard's approach to this problem is, in fact, highly dialectical in its comprehension of the historical, political, economic, and social dynamics of class."

I have argued in the past that the corporate economy is so closely bound up with the power of the state, that it makes more sense to think of the corporate ruling class as a *component* of the state, in the same way that landlords were a component of the state under the Old Regime. Blogger Brad Spangler used the analogy of a gunman and bagman to illustrate the relationship:

> Let's postulate two sorts of robbery scenarios.
>
> In one, a lone robber points a gun at you and takes your cash. All libertarians would recognize this as a micro-example of any kind of government at work, resembling most closely State Socialism.
>
> In the second, depicting State Capitalism, one robber (the literal apparatus of government) keeps you covered with a pistol while the second (representing State allied corporations) just holds the bag that you have to drop your wristwatch, wallet and car keys in. To say that your interaction with the bagman was a "voluntary transaction" is an absurdity. Such nonsense should be condemned by all libertarians. Both gunman and bagman together are the true State.

Given this perspective, it doesn't make much sense to consider particular proposals for deregulating or cutting taxes without regard to the role the taxes and regulations play in the overall structure of state capitalism. That's especially true considering that most mainstream proposals for "free market reform" are generated by the very class interests that benefit from the corporate state.

No politico-economic system has ever approximated total statism, in the sense that "everything not forbidden is compulsory." In every system there is a mixture of compulsory and discretionary behavior. The ruling class allows some amount of voluntary market exchange within the interstices of a system whose overall structure is defined by coercive state intervention. The choice of what areas to leave to voluntary exchange, just as much as of what to subject to compulsory regulation, reflects the overall strategic picture of the ruling class. The total mixture of statism and market activity will be chosen as most likely, in the estimation of the ruling class, to maximize net exploitation by the political means.

It doesn't make much sense to consider particular proposals for deregulating or cutting taxes without regard to the role the taxes and regulations play in the overall structure of state capitalism.

Primary and Secondary Interventions

Some forms of state intervention are primary. They involve the privileges, subsidies, and other structural bases of economic exploitation through the political system. This has been the primary purpose of the state: the organized political means to wealth, exercised by and for a particular class of people. Some forms of intervention, however, are secondary. Their purpose is stabilizing, or ameliorative. They include welfare-state measures, Keynesian demand management, and the like, whose purpose is to limit the most destabilizing side-effects of privilege and to secure the long-term survival of the system.

Unfortunately, the typical "free market reform" issuing from corporate interests involves eliminating only the ameliorative or regulatory forms of intervention, while leaving intact the primary structure of privilege and exploitation.

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The strategic priorities of principled libertarians should be just the opposite: first to dismantle the fundamental, structural forms of state intervention, whose primary effect is to enable exploitation, and only then to dismantle the secondary, ameliorative forms of intervention that serve to make life bearable for the average person living under a system of state-enabled exploitation. As blogger Jim Henley put it, remove the shackles before the crutches.

To welcome the typical "free market" proposals as "steps in the right direction," without regard to their effect on the overall functioning of the system, is comparable to the Romans welcoming the withdrawal of the Punic center at Cannae as "a step in the right direction." Hannibal's battle formation was not the first step in a general Carthaginian withdrawal from Italy, and you can be sure the piecemeal "privatizations," "deregulations," and "tax cuts" proposed are not intended to reduce the amount of wealth extracted by the political means.

Regulations and Increasing Statism

Moreover, regulations that limit and constrain the exercise of privilege do not involve, properly speaking, a net increase in statism at all. They are simply the corporate state's stabilizing restrictions on its own more fundamental forms of intervention.

Moreover, regulations that limit and constrain the exercise of privilege do not involve, properly speaking, a net increase in statism at all.

Silber illustrated the dialectical nature of such restrictions with reference to the question of whether pharmacists ought to be able to refuse to sell items (such as "morning after" pills) that violate their conscience. The atomistic-libertarian response is, "Of course. The right to sell, or not sell, is a fundamental free-market liberty." The implicit assumption here, as Silber pointed out, is "that this dispute arises in a society which is essentially free." But pharmacists are in fact direct beneficiaries of compulsory occupational licensing, a statist racket whose central purpose is to restrict competition and enable them to charge a monopoly price for their services. Silber wrote:

> The major point is a very simple one: the pharmacy profession is a *state-enforced monopoly*. In other words: the consumer and the pharmacist are not equal competitors on the playing field. The state has placed its thumb firmly on the scales—and on one side only. That is the crucial point, from which all further analysis must flow. . . .
>
> . . . [T]he state has created a government-enforced monopoly for licensed pharmacists. Given that central fact, the least the state can do is ensure that everyone has access to the drugs they require—and whether a particular pill is of life and death importance is for the individual who wants it to decide, *not* the pharmacist and most certainly not the government.

When the state confers a special privilege on an occupation, a business firm, or an industry, and then sets regulatory limits on the use of that privilege, the regulation is not a new intrusion of statism into a free market. It is, rather, the state's limitation and qualification of its own underlying statism. The secondary regulation is not a net increase, but a net *reduction* in statism.

On the other hand, repeal of the secondary regulation, without an accompanying repeal of the primary privilege, would be a net *increase* in statism. Since the beneficiaries of privilege are a de facto branch of the state, the elimination of regulatory constraints on their abuse of privilege has the same practical effect as repealing a constitutional restriction on the state's exercise of its own powers.

To expand Spangler's bagman analogy, a great deal of alleged statism amounts to the gunman telling the bagman, after the victim has handed his wallet over at gunpoint, to give the victim back enough money for cab fare so he can get safely back home and keep on earning money to be robbed of.

When the state is controlled by "legal plunderers" and every decision for or against state intervention in a particular circumstance reflects their strategic assess-

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ment of the ideal mixture of intervention and non-intervention, it's a mistake for a genuine anti-state movement to allow the priorities for "free market reform" to be set by the plunderers' estimation of what forms of intervention no longer serve their purpose. If the corporate representatives in government are proposing a particular "free market reform," you can bet your bottom dollar it's because they believe it will *increase* the net political extraction of wealth.

The corporate ruling class's approach to "free market reform" is a sort of mirror-image of "lemon socialism." Under lemon socialism, the political capitalists (acting through the state) choose to nationalize those industries that corporate capital will most benefit from having taken off its hands, and to socialize those functions the cost of which capital would most prefer the state to bear. They shift functions from the private to the state sector when they are perceived as necessary for the functioning of the system, but not sufficiently profitable to justify the bother of running them under "private sector" auspices. Under "lemon market reform," on the other hand, the political capitalists liquidate interventionist policies after they have squeezed all the benefit out of state action.

If the corporate representatives in government are proposing a particular "free market reform," you can bet your bottom dollar it's because they believe it will increase the net political extraction of wealth.

A good example: British industrialists felt it was safe to adopt "free trade" in the mid-nineteenth century, after mercantilism had served its purpose. Half the world had been hammered into a unified market by British force of arms and was held together by a British merchant fleet. Britain had stamped out competing industry in the colonial world. It had reenacted the Enclosures on a global scale, stealing enormous amounts of land from native populations and converting it to cash crops for the imperial market. The commanding position of British capital was the direct result of past mercantilism; having established this commanding position, it could afford "free trade."

The so-called "free trade" movement in the contemporary United States follows the same pattern. A century ago, high tariff barriers served the interests of American political capitalists. Today, when the dominant corporate interests in America are transnational, tariffs are no longer useful to them. They actually impede the transfer of goods and partially finished products between the national subdivisions of a single global corporation.

On the other hand, so-called "intellectual property" today serves exactly the same protectionist function for transnational corporations that tariffs used to serve for the old national corporations a century ago. So the political capitalists promote a version of "free trade" that involves doing away with outmoded tariff barriers while greatly strengthening the new protectionism of "intellectual property" law.

We must remember that the measure of statism inheres in the functioning of the overall system, not in the formal statism of its separate parts. A reduction in the formal statism of some separate parts, chosen in accordance with the strategic priorities of the statists, may actually result in a net *increase* in the overall level of statism. Our strategic agenda as libertarians, in dismantling the state, must reflect our understanding of the overall nature of the system.

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A Property-Rights Theory of Mass Murder

BY STEPHEN W. CARSON

In the study of mass murder by governments, R. J. Rummel stands tall. His theory, which focuses on the role of the state, is a giant step forward from previous theories that examined "cultural-ethnic differences, outgroup conflict, misperception, frustration-aggression, relative deprivation, ideological imperatives, dehumanization, resource competition, etc." Oversimplifying somewhat for now, I characterize his theory as a *regime-type theory:* at one extreme, totalitarian dictatorships are the most deadly; authoritarian regimes are still deadly but less so; and, at the other extreme, democracies are the least deadly.

Besides presenting a theory that puts the state at center stage, Rummel has also made two other major contributions to this area of study. First, he has attempted to make the first full accounting of twentieth-century mass murder. No earlier investigators, for example, had tried to come up with a number for total Nazi mass-murder victims because they had focused on particular groups—Jews, Gypsies, and so forth. His most recent estimate is that 262 million civilians were killed by governments in the twentieth century.

Second, using what he learned about the number of government killings, he has emphasized the importance of understanding *democide* (his term for mass murder of civilians by government) by pointing out that as horrendous as combat deaths were in the twentieth century, the truth is that many more noncombatants were murdered.

In this article I present an alternative theoretical approach, a *property-rights theory,* for understanding how governments came to slaughter unarmed civilians by the millions and tens of millions. The questions that Rummel and I are trying to answer are: First, how does a government gain the capability to murder millions of civilians? And second, what, if anything, can be done to prevent such monstrous crimes?

I present an alternative theoretical approach, a *property-rights theory,* for understanding how governments came to slaughter unarmed civilians by the millions and tens of millions.

Rummel concentrates on the structure of government, pointing to the centralization of power in an authoritarian or dictatorial ruler as the primary problem and to "political freedom" and decentralization of power through democracy as the solutions. The property-rights approach, by contrast, points to systematic invasions of private-property rights as the primary enabling acts and to defense of those rights as the solution. My proposed approach implies that, contra Rummel, democracy is not part of the solution, but rather part of the problem, because both democratic ideology and democratic practice undermine private-property rights.

What stands out about democide in the twentieth century is not the discrete "crimes of passion," such as

Stephen Carson, a software engineer, writes independently from St. Louis. *This article is condensed from "Killing and Stealing: A Property-Rights Theory of Mass Murder," which first appeared in* The Independent Review, *Winter 2007, and was reprinted in* Opposing the Crusader State: Alternatives to Global Interventionism, *edited by Robert Higgs and Carl P. Close (The Independent Institute).*

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the killings in Tiananmen Square, but the systematic bureaucratic killing that took place over years. Not only is this aspect of state murder horrifying to contemplate, but it also explains how the killing occurred on such a stupendous scale: Killing millions of people took a long time. This aspect of democide seems especially amenable to economic—or, more precisely, praxeological—analysis because the systematic killing took place over time, used resources, and even involved something like capital investment (for example, to build concentration camps). But mass killing is not a market phenomenon, so rather than turning to the familiar praxeology of cooperation, which starts with the mutual gains realized in peaceful exchange, we must turn to the analysis of the dark side of human action: the praxeology of aggression.

Tiananmen Square, Beijing, June 4, 1989.

Aggression Against Property and its Praxeological Effects

Systematic aggression against property changes the time horizon for individuals. Because incentives for producing for the future are reduced, future income and consumption are also reduced, which results in a rise in time preference. Furthermore, taxation discourages time-consuming but productive efforts to earn income and encourages instead short time-horizon methods, including stealing or legally seizing goods through politics. Thus aggressions against external property are problematic in several ways.

First, such aggressions constitute a violent attack on a person through the things the person owns. When they are "legal," then a property owner's resistance to them will result in official violence directly against his person. This point deserves emphasis because political attacks on private-property rights have been widely glorified as idealistic and socially minded for more than a hundred years. Much as rape needs to be viewed primarily as a violent act rather than as a sex act, so aggression against property needs to be viewed primarily as a violent act rather than as a manifestation of idealism if we are to understand its role in mass murder.

Second, successful aggression against private-property rights removes the use of the property from the rightful owner's control. Loss of property has numerous consequences, but those most relevant to democide are loss of the ability to protect oneself, as when one's guns or other means of self-defense are taken, and loss of the ability to be productive and hence to command resources for consumption.

Third, a successful expropriation empowers the aggressor. Owing to control of the property acquired through aggression, he will probably have enhanced capability to perpetrate even more violence.

Fourth, a successful theft may reduce the incentive to acquire new property because the victim perceives such accumulation as pointless—the property will just be taken as before.

Systematic stealing disarms victims and empowers aggressors. By "disarms," I mean not only that it takes weapons away, but also, and perhaps more important, that it takes away the resources used to sustain and defend their lives.

Precursor to Democide

Aggression against external property usually *precedes* aggression against persons. Moreover, aggression against external property *enables* aggression against persons by transferring resources from victim to aggressor, lowering the time preference of both, creating conflict where there was harmony, and so forth. Because democide usually takes place over long periods, the victims must be prevented from running away and from effectively defending themselves. Thus attacks on property

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are essential to a successful democide—to keep the victims helpless and foreclose their alternatives.

In the case of communism the attack is mounted not simply on external property in general—the sort of attack illustrated by a bandit raid or by income taxation—but on the means of production in particular. Ludwig von Mises's socialist-calculation argument demonstrates that where capital is socialized, economic calculation will become chaotic. To the extent that the free-market price system is undermined, buyers and sellers find it more difficult to compare the benefits they expect to gain from trade with their perceived opportunity costs. As this difficulty increases, economic planning by individuals and business owners, and the coordination of their plans by the economic system, is weakened. At the extreme, the economy will break down altogether, and the advantages of the division of labor will be lost for the most part. This consequence alone may be enough to account for the murderous famines that invariably accompany all concerted efforts to socialize.

An attack on people's ability to produce differs from merely stealing someone's output for the day. A person who has lost his productive capacity has lost the ability to demand consumer goods on the market—another reason why socialism has been deadly on such a huge scale. Socialism's victims are left without the means to draw goods to themselves to meet their basic needs. They become entirely dependent on bureaucratic distribution, which, as the calculation argument suggests, will be ineffective even if the regime intends to feed them. If the regime decides to starve them, however, it can do so with deadly effectiveness.

Another aspect of the socialization of the means of production is that everyone becomes an "employee" of the state. What jobs they may take, whether they work, their rewards and punishments—all are determined by government functionaries.

The people become slaves in fact, if not officially, but they become slaves of an unusual sort. Hans-Hermann Hoppe explains that just as socialized capital is depleted, so also socialized labor receives "lowered investment, misallocation, and overutilization." Labor is misallocated because of the lack of a competitive market for it and the consequent absence of market prices because independent entrepreneurs are eliminated. One pictures the schoolteachers and skilled craftsmen working in the killing fields under the watchful eyes and guns of the Khmer Rouge. Labor is overutilized because with the workers' income largely subject to the caretakers' control, these partial, temporary owners have an incentive to use up the labor without regard for the long-term consequences. In public slavery, the worker has no resale value. In the extreme, laborers are worked to death, as many millions were in the twentieth century.

Take away people's means of defense and their ability to acquire another means of defense, and they are left truly defenseless before the power of the state.

The Historical Role of Gun Control

In *Death by "Gun Control,"* Aaron Zelman and Richard Stevens argue that gun control has preceded all the mass murders of the twentieth century. They summarize their thesis in what they call the "Genocide formula": "Hatred + Government + Disarmed Civilians = Genocide." As they explain further, "When the firearms are confiscated and the defense-minded people gone, only the defenseless unarmed people remain. The third element of the Genocide formula —the only one that the people can directly control—is in place."

This important argument fits very well into a property-rights approach to democide. I would emphasize, however, that stealing the means of production is perhaps even deadlier. People who still can demand goods on the market, owing to their ability to produce, can procure new means of defense.

The deadliest combination is gun control and socialization. Take away people's means of defense and their ability to acquire another means of defense, and they are left truly defenseless before the power of the state.

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How does a regime that ultimately rests on popular opinion get away with such horrendous actions? Ideology holds the key.

Ideology's role in democide must be considered carefully, however. Violators of external property rights do not always embrace an explicitly anti-property ideology, as the communists did. They were especially deadly, though, because they precisely and consciously aimed their attacks at property rights. As we examine ideologies with elements of socialization, we should expect to find some of this same lethal effect, though not as much as in outright socialism.

Attacks on property also go by other names besides *communism* and *socialism*. *Militarism,* which includes the subordination of private-property rights to the state's military machine, played a deadly role not only in the Nazi regime, but also, we are learning, in Mao's regime. Mao was willing to take food from the mouths of the Chinese people for this purpose, and he often did so. Ideologies that announce their devotion to the race, the nation, and even freedom and democracy can also result in attacks on private-property rights.

Ideologies that announce their devotion to the race, the nation, and even freedom and democracy can also result in attacks on private-property rights.

The property-rights approach to democide gains credibility when we recognize that the twentieth century, a time of such colossal mass murders, was also a time of ideological rejection of classical liberalism's strong devotion to the protection of private-property rights—an ideological rejection, it should be noted, that was popular in all regimes by the middle of the century, even in those that were nominally committed to "freedom." It is no coincidence, however, that the century's deadliest regimes were explicitly socialist and featured an announced ideology of enmity toward private-property rights.

According to Rummel, "Most democides occur under the cover of war, revolution, or guerilla war, or in their aftermath." From the perspective of the property-rights approach to democide, war plays a causal role in empowering a regime and in compromising property rights. "War is the health of the state," as Randolph Bourne pointed out: The state gains strength, and the people who are subject to it become correspondingly weaker. During wartime we are likely to see the warfare state, swollen with stolen men and goods, commit genocide against "foreigners." "Given his natural human aggressiveness," Hoppe asks, "is it not obvious that [the state ruler] will be more brazen and aggressive in his conduct toward foreigners if he can externalize the cost of such behavior onto others?"

I have criticized Rummel's theory here for putting so much stress on the way the government is structured (as a dictatorial, authoritarian, or democratic system) rather than on what the government actually does (specifically to private-property rights). Yet in his 1983 paper "Libertarianism and International Violence," he puts great weight on economic freedom as a contributor to avoiding violence. In his 1997 book *Power Kills*, however, he places heavy stress on democracy ("political freedom") and makes little or no mention of the role of property rights or economic freedom. Rummel's enthusiastic endorsement of democracy leaves little room in particular for understanding, as I see it, how democracy actually contributes to the deadly move toward the massive invasion of property rights.

What does the property-rights theory offer that can supplement or amend Rummel's regime-type theory?

Supplementing the Regime-Type Theory

First, focusing on the regime type is not helpful in understanding cycles of mass murder under the same regime type—for example, the peaks and valleys of mass murder by the government of the USSR, a totalitarian dictatorship from beginning to end. A property-rights approach, however, not only suggests that a totalitarian regime would be murderous but also shows where the peaks and valleys of killing will be: the peaks would correspond to determined efforts to collectivize (that is, to massive assaults on private-property rights) and the valleys would correspond to retreats

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from collectivization (for example, to Lenin's New Economic Policy period in the USSR).

Similarly, in the case of China a focus on regime structure would merely indicate that it has been under a communist dictatorship for more than 50 years. A property-rights approach, in contrast, calls our attention to the significant changes in property rights in China in recent years and predicts that large-scale democide is unlikely, despite the regime type's being nominally the same as the one during the Great Leap Forward.

A property-rights approach gives us more insight into the dynamic of how a state gains murderous strength and the people become weak, so that the state can kill so many people. If a devil asked Rummel, "How do I murder tens of millions of people?" Rummel would have to answer, "Establish a totalitarian dictatorship." To which the devil would respond, "Fine, but how can I put myself in a position to do so?" The property-rights theory then explains that the path to mass murder and the path to a powerful centralized state are the same and that the key is to attack private-property rights.

A property-rights approach gives us more insight into the dynamic of how a state gains murderous strength and the people become weak, so that the state can kill so many people.

Applying the Theory

Let's see how the property-rights theory sheds light on a few matters.

Socialism: From the perspective of the property-rights theory, it seems clear why the greatest mass murderers were avowed socialists instead of, say, right-wing military dictators such as Francisco Franco. Attacks on private-property rights in socialist regimes were not a side effect of another goal, such as defending the country, suppressing a dissident religious group, or attacking a particular race. Such attacks expressed the socialists' explicit and avowed ideological aim. It comes as no surprise then that the revolutionary socialists (socialists who really meant business) attacked private-property rights repeatedly in deadly waves of "collectivization," "de-kulakization," "Great Leaps Forward," and so forth.

Imperialism: The property-rights theory helps us to understand how the same type of regime can behave one way at home and another way abroad. At home the regime may face resistance at every turn from long-established property-rights traditions. Abroad, the regime does not face these constraints in dealing with the "natives."

Democracy: Where the regime-type theory holds up democracy as the solution to mass murder, war, and other types of regime violence, the property-rights theory argues that because the principle of democracy (at least in the modern sense) has nothing to do with the protection of private-property rights and in practice undermines such rights, it promotes such violence.

Regime Change: The regime-type theory has been used to justify "regime change," a policy of sanctions, military invasion and occupation, and other means intended to change an undemocratic regime into a more democratic one. The reasoning is all too familiar: "you have to break some eggs to make an omelet." In this case, the omelet is democracy, which it is hoped will result in less democide and a more peaceful regime, thus justifying in the long run all the short-term "collateral damage" and other destruction.

The property-rights theory encourages instead an increase in justice—that is, an increased respect for private-property rights—or, to put it another way, a decrease in robbery. Nothing in this perspective suggests that a wave of injustice, such as "liberating" a country's population by means of "shock and awe" aerial bombardments, can serve as the path to justice. In pointing out this advantage of the property-rights theory, I do not mean to be topical in a frivolous way. A theory of decreasing mass murder that encourages mass murder has a serious defect.

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Government Stifles the Wisdom of Crowds

BY JOHN STOSSEL

Who will be our next president? If you want an accurate guess, don't ask the pundits. Go where people put their money where their mouths are.

Intrade.com, for example.

It's a prediction market, basically a futures market like those where people bet on the future price of oil, gold, and pork bellies. But at Intrade, people bet mostly on politics.

The prices on Intrade have been highly accurate predictors of the future. On TV, political "experts" make pronouncements on what they think will happen, but crowds of bettors on sites like Intrade are right more often.

In 2004 TV experts like James Carville said John Kerry would win the presidency. In 2006, they said the Republicans would keep control of Congress. But the crowds on Intrade bet against Kerry, and in 2006, "the bettors at Intrade collectively called every single race in the Senate right," James Surowiecki, author of *The Wisdom of Crowds*, told me on "20/20."

Wisdom of Crowds? When I think of crowds, I think of mobs. But, Surowiecki says, "[C]rowds of people can be incredibly intelligent. . . . [I]f the crowd is big enough and diverse enough, you have access to so much more knowledge."

The first computerized political market was created at the University of Iowa. "That market outperformed polls three-quarters of the time, and its election-eve forecasts were better than any pundit's and better than any poll," says Surowiecki.

Intrade takes bets on more than politics. You can bet on global warming—will this year be one of the five hottest on record?—or on whether Eliot Spitzer will be indicted or on whether there will be a massive earthquake before the end of this year.

But most bets concern presidential politics. People have made lots of money predicting unlikely events, such as John McCain's comeback.

So isn't this a form of gambling, and isn't gambling illegal in America? Intrade is located in Ireland, and CEO John Delaney told me he's afraid to come to America because, "I don't look good in an orange jumpsuit."

The prices on Intrade have been highly accurate predictors of the future. On TV, political "experts" make pronouncements on what they think will happen, but crowds of bettors on sites like Intrade are right more often.

Prediction or Gambling?

He has reason to worry. Congressional Republicans added a provision cracking down on online gambling to a port-security bill in 2006.

Most banks stopped dealing with sites like Intrade after that, but some continued, including one called Neteller. Its Canadian cofounders were arrested on a trip to the United States in 2007. Now they face up to five years in prison. That seems like an odd way to treat people who make financial activities between consenting adults possible—while providing useful information about the future.

Horse racing, fantasy sports, and online lotteries were given exemptions in the 2006 bill. It's OK to bet if you have influence in Washington. Ironically, the U.S. Navy and Federal Reserve use Intrade's data.

That Iowa prediction market begged for special per-

John Stossel is co-anchor of ABC News' "20/20" and the author of Myths, Lies, and Downright Stupidity: Get Out the Shovel—Why Everything You Know is Wrong, *now in paperback.* *Copyright 2008 by JFS Productions, Inc. Distributed by Creators Syndicate, Inc.*

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mission from the government and got a waiver that limits bets to $500. "That makes them less accurate," says Surowiecki. "Real money is what makes it work."

America's anti-gambling laws are thoroughly hypocritical. States run lotteries—one of the worst forms of gambling since no skill is involved and the odds are so bad—while prediction markets, a powerful forecasting tool, are stifled.

The Department of Defense once considered setting up a market to predict where the next terrorist attack might occur. The idea died when some politicians shouted it down. Senator Byron Dorgan sneered at "this betting parlor on the Internet." Senator Ron Wyden said a terrorism futures market "is ridiculous . . . grotesque."

Surowiecki says, "These are potentially tremendously useful tools for improving our national security. It's much more egregious not to use them than to use them."

What does Intrade predict now? As I write this, Barack Obama is favored to win the presidency. You can buy McCain for about 37 cents, indicating a 37 percent chance of winning. But Obama is valued at 56 cents (http://tinyurl.com/4npyt).

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Capital Letters

Are Corporations Islands of "Calculational Chaos"?

According to Kevin Carson ("Hierarchy or the Market," *The Freeman,* April 2008), a private business corporation is in effect "an island of calculational chaos in the market economy." . . . Carson writes, "Those at the top make decisions concerning a production process about which they likely know as little as did, say, the chief of an old Soviet industrial ministry." But that is not true with respect to modern corporations. They operate in an economy with private property, privately owned businesses, and a market for goods and services in which prices develop. Thus a corporation is not similar to a socialist state; it has market prices to guide it.

Carson mentions F. A. Hayek's "The Use of Knowledge in Society," which explains that the knowledge corporations need to plan their operations is widely dispersed among countless individuals. But Carson fails to note that Hayek explained how this information becomes available to businessmen through market prices. . . .

Businessmen make calculations on the basis of market prices not only when exchanging with other businesses but also when shifting goods and workers internally from one department to another. Almost every day, newspapers report some example of entrepreneurs making plans on the basis of market prices and using bookkeeping to determine income and outgo. . . .

It is true, as Carson points out, that government interventions—regulations, taxes, and subsidies—distort prices and the pattern of production, so that today's prices are not truly free-market prices. Nevertheless, even such not-truly-free-market prices . . . make available to businessmen widely dispersed information and enable them to calculate fairly accurately, formulate plans, estimate costs and income, and anticipate profits and losses. Thanks to market prices and modern bookkeeping methods, our corporations do not yet operate "in a manner quite similar to the bureaucracy of a socialist state."

—BETTINA BIEN GREAVES
Hickory, North Carolina

Kevin Carson replies:

Most of the issues Mrs. Greaves raises were addressed in my June 2007 *Freeman* article, "Economic Calculation in the Corporate Commonwealth." I refer her to it, since I cannot do her arguments justice in the constraints of a letter.

I would dispute Mrs. Greaves's contention that a genuine price system operates within the large corporation, either as an effective mechanism for assigning values to production inputs or for aggregating dispersed knowledge. Corporate internal-transfer pricing, in the case of goods for which there is no external market, are essentially what Murray Rothbard denounced, in *Man, Economy and State,* as play-acting, directly comparable to the pricing Oskar Lange proposed under his market socialism. Peter Klein expounded on this at much greater length in "Economic Calculation and the Limits of Organization" (*The Review of Austrian Economics,* vol. 9, no. 2, 1996). Rothbard and Klein probably underestimated the extent of the problem. The majority of intermediate goods to which internal-transfer prices are assigned are product-specific components for which no external market exists.

The phenomenon Mrs. Greaves describes, of corporate management using external market prices as a guide to internal-transfer pricing, is just the kind of estimation Ludwig von Mises argued state-socialist central planners would have to resort to in assigning prices to inputs in their domestic economies. Mises, it goes without saying, regarded this as highly unsatisfactory.

Pricing based on the available supply and the valuation of purchasers under the spot conditions of the market may lead to irrational allocations given different

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conditions of supply and valuation within the firm. . . . But if all that matters is that some external market continue to exist, no matter how unrepresentative of conditions within the firm, then a state-planned economy ought also to work just fine with implicit pricing based on foreign markets, so long as some market exists anywhere in the world.

To address Mrs. Greaves's other major point, on distributed knowledge, the source of the trouble is the moral hazard resulting from the separation of "ownership" from control, and of labor from management. Management's attempts to aggregate knowledge in a hierarchy are limited by the agent's unique knowledge. Unless the agent is a residual claimant, who fully internalizes the costs and benefits of his own actions, he has every reason (and opportunity) to take advantage of his private knowledge to the disadvantage of the principal. Management is insulated from effective external control by its use of retained earnings for most new investment and its ability to rig the internal rules of corporate governance to thwart hostile takeovers and proxy fights.

In American corporate culture, despite management's ostensible role as agent, its normal practice is that of an Ottoman tax farmer: gutting long-term productive capabilities in order to maximize short-term profits and game its own bonuses and stock options. . . . Double-entry bookkeeping is a doubtful instrument for controlling an agent when the agent is keeping the books.

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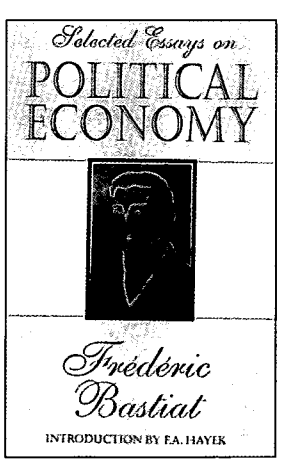

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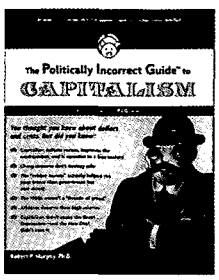
Book Reviews

The Politically Incorrect Guide to Capitalism

by Robert P. Murphy
Regnery • 2007 • 194 pages • $19.95

Reviewed by George C. Leef



Once Regnery had begun its "Politically Incorrect Guide" series, it was inevitable that the publisher would eventually get around to a book on capitalism. The books in the series have been broadside attacks on the mistaken views that Americans have on such topics as American history and the Constitution—views that reflect the prevalent hostility to individual liberty and strictly limited government. Robert Murphy's contribution is a superlative effort, debunking a large number of common myths about capitalism and explaining to the reader why market processes always work better than government coercion.

Murphy's 16 chapters cover the waterfront. He begins by providing the reader with a straightforward definition of his subject. "Capitalism," he writes, "is the system in which people are free to use their private property without outside interference." That freedom allows individuals to choose what to do (and not do) with their lives: what jobs they want, what goods and services they prefer, how much to save, where to invest, and so on. All alternative systems, he points out, depend on coercion, with people in authority dictating some or most aspects of other people's lives to them. That's the way to get people's thinking on the right track!

Murphy makes clear that capitalism isn't just one of many competing economic systems, but is unique in that it's the only one that works without coercion. This is a key point, and I wish that Murphy had developed it more fully. But in a short book some sacrifices must be made.

Page after page debunks erroneous ideas that are commonly held about capitalism. For example, it is widely believed that child labor was a black mark against capitalism, showing its cruelty. Surely government intervention, even though coercive, was a good thing, since it ended the terrible exploitation of children—right? Murphy shows that this idea is mistaken, writing that capitalism's "vast expansion in production allowed more and more families the luxury of keeping their children out of the labor force." He then points out that during the Industrial Revolution, infant mortality fell dramatically and life expectancy for everyone rose.

Murphy never concedes an inch to capitalism's opponents. You'll look in vain for even a single sentence beginning like this: "Although capitalism is generally beneficial, we have to keep in mind that. . . ." The book never apologizes or "leaks."

Here are just a few controversies in which many writers would backpedal. Aren't athletes and corporate CEOs paid too much compared to, say, teachers? Murphy carefully explains why the great differences in compensation under capitalism are both necessary and justified.

Don't labor unions help the worker to get more of what he deserves by offsetting the "bargaining power" of business owners? Where some writers would agree, but then add that unions sometimes go too far, Murphy explains that the apparent union gains for some workers come at the expense of others.

Isn't it a good thing that we have antidiscrimination laws to keep capitalists from shutting out minorities from a chance at good jobs, housing, and so forth? Murphy stands firm against antidiscrimination laws, which necessarily involve coercive interference with freedom of contract. He explains that capitalists have a strong incentive to hire the most competent workers they can and pay them wages set by competition.

The book also includes many attacks on the supposedly benign motives of those who advocate government economic intervention. For instance, Murphy shows that the so-called "prevailing wage" law passed by Congress was motivated by nothing other than a desire by white construction workers and their political allies to prevent black workers from underbidding them on lucrative government construction projects. Bravo! Most people are willing to take at face value govern-

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ment pronouncements on the alleged need to interfere with capitalism. Murphy does his best to get his readers to look skeptically at government actions and dig for the real reasons behind them.

Another feature of the book I like is its numerous references to other books that have made the case for capitalism. Readers are encouraged to expand their understanding with the inclusion of little "A book you're not supposed to read" features. For example, when discussing the fallacies regarding international trade, Murphy recommends Douglas Irwin's *Free Trade Under Fire*, and when disabusing readers of the myths about the Great Depression, he recommends Jim Powell's *FDR's Folly*. That's more effective than a bibliography tucked away at the end.

Murphy's book is an excellent choice if you want to introduce a young person to the case for capitalism. It's thorough, clearly written, and enjoyable to read. Veterans of the battle for freedom will also benefit from Murphy's many sharp insights. I hope we will be hearing more from him soon.

George Leef (georgeleef@aol.com) is book review editor of The Freeman.

The Shock of the Old: Technology and Global History Since 1900

by David Edgerton

Oxford University Press • 2006 • 288 pages • $26.00

Reviewed by David K. Levine

The Shock of the Old chronicles the recent history of technology. It is not about famous inventions, but about technologies that have proven useful over time—a good meme that I looked forward to learning about. The book is easy reading; who would think that learning about corrugated iron could be fun? And it nicely highlights the importance of several such lesser-known technologies.

Edgerton's other theme, the disappearance and reappearance of technologies such as condoms, oxen, and ship-breaking, is not news to economists—it has been decades since Paul Samuelson elegantly conceded this point to Joan Robinson—but may be news to the general reader of history.

On the negative side, the book lacks a strong theme: it is a compendium of facts with no analysis or conclusion. This isn't just the reaction of an economist to a historian. Nobody would accuse historian William McNeill of failing to analyze. What, for example, are we to make of the fact that each year 100 million bicycles are produced, but only 40 million automobiles? On what scale does one bicycle equal one automobile? What if I said "more children's toy cars are produced than automobiles"? What would that signify? Insofar as the book has a theme, it is that old technologies still matter. But so what?

More important is the discussion of "Creole" technologies; that is, technologies that are adapted to local circumstances. Examples in the automobile industry include the Ambassador in India, and the VW Beetle in Mexico and Brazil (Edgerton seems to have missed the Ford Falcon in Argentina), produced long after they were supplanted elsewhere. The other leading example given is the use of small-scale production in 1950–70s China.

What would analysis show about these examples? They were all bad things and all driven by trade restrictions—testaments to what happens in the absence of free markets. It isn't that people in Brazil wanted to buy decades-old automobiles or couldn't afford nice new Japanese models. Their government simply didn't allow them to buy the nice new ones. Edgerton does not find this worthy of notice. Indeed, he seems to put the private sector on the same level as government when it comes to foolish adoption of technology. Yet the only evidence of private-sector failure (against numerous examples of public-sector failure) is this: "Following the privatisation of British Railways in the 1990s, existing maintenance regimes were disrupted, with the consequences that essential maintenance procedures were no longer followed, resulting in serious accidents." Interestingly, while Edgerton says that "the present does not seem radically innovative," it took me less than 30 seconds using that present innovation, the Internet, to establish that this is not true.

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The book places a great deal of emphasis on the importance of maintenance of capital investments. It claims that large centralized organizations are needed to oversee maintenance, then goes on to provide overwhelming evidence that centralized governments do a poor job of providing maintenance and that decentralized free markets do a good job. (Except, of course, for the railway non-fact above.)

Edgerton then examines how imitation "with low R&D expenditures" is generally more effective than true innovation. This is a point frequently made in the economics literature. Again, the role of government is not well discussed: The conclusion from the fact that the USSR spent a lot of money on R&D and got very little useful innovation seems obvious.

Free-market competition is the key to innovation. Edgerton does a fine job of examining how competition between nations has led to substantial innovation. He also has a good discussion of autarky that, sadly, is not well tied in to the rest of the book. For some reason, that discussion is followed by a section on hydrogenation that seems pointless and out of place.

For a historian, Edgerton's knowledge of history is suspect. After reading his discussion of the use of assault rifles for the mass murder of Vietnamese villagers, I wondered whether he had ever read Julius Caesar's account of his conquest of Gaul. Parts of the book seem to have more to do with proving the author's political correctness than with innovation. There is a lengthy aside on the war in Iraq, including a brief discussion of torture. Yet it is only in the twentieth century that torture has become socially disapproved of, and the "innovations" in torture seem more oriented toward concealment than effectiveness. I seriously doubt that modern torture is a technological improvement over the medieval period. Similarly, following a long and quite interesting examination of meatpacking, the discussion turns to genocide.

The Shock of the Old has some interesting things to say, but don't make it the only book you read on technology and innovation.

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Illiberal Justice: John Rawls vs. the American Political Tradition

by David Lewis Schaefer
University of Missouri Press • 2007 • 367 pages •
$49.95 cloth; $24.95 paperback

Reviewed by Tibor R. Machan

Illiberal Justice is a book that administers a philosophical drubbing to the late Harvard political theorist John Rawls. Rawls's egalitarian ideas, especially that inequalities can only be justified if they can be shown to help the poorest people, have been cited as justification for much of the redistributionism of the American left. For that reason, an attack on his thinking is interesting.

David Lewis Schaefer, professor of political science at Holy Cross, gives us a serious but flawed critique of Rawls. It essentially offers up political theorist Harry Jaffa's version of the American political tradition against the intuitionist house of cards that Rawls built in his career of defending his highly abstract idea of egalitarian justice.

Schaefer deploys a powerful array of serious, indeed fatal, objections to Rawls's project (and by implication against the egalitarian ethos it sustains). He demonstrates inconsistencies in Rawls's position, as when he shows that the educational policies Rawls favored could just as easily retard the well-being of millions as benefit them. Schaefer observes that "there is no way of knowing in advance whether the genetically least advantaged ('the less intelligent') will profit most by having more spent on their education rather than on the training of the more talented whose professional and economic success can ultimately enhance the well-being of their less able peers."

That's a point well taken, and if one wishes to see Rawls's justice-as-fairness thesis torn to shreds good and hard, one could do much worse than read *Illiberal Justice*. But one must be on guard throughout not to become lured into the opposite line of thinking —only here and there made explicit by Schaefer— one that makes the American political tradition into a

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vehicle for conservative "soulcraft" (to use George Will's phrase).

Underneath all the complaints about Rawls's bad arguments and ideas we find a stern, even angry, insistence that governments need to keep us on the straight and narrow and that we must not succumb to the appeal of a strict reading of the Founders. Schaefer means a *libertarian* reading—one that denies that it is the task of government to deal with whatever moral problems exist in society. While he often contrasts Rawls's highly abstract contractual analysis of justice and what kind of polity it suggests with the Founders' Lockean natural-rights approach, Schaefer doesn't give us a good idea of how he reads Locke or the Declaration of Independence. What is having "unalienable" rights to our lives and liberties supposed to mean if majorities and elite representatives may play fast and loose with them?

For me, the wildest feature of *Illiberal Justice* is the author's insistence that Rawls is a libertarian. I suppose this is a ploy to fend off any suggestion that what is wrong with Rawls is that he fails to appreciate and defend the classical-liberal school of political thought, a school Straussians such as Schaefer support with reluctance. He pursues this line through thick and thin, and it seems to be motivated by the desire to rebut an interpretation of the American Founders as libertarians. Heaven help us if we were to take seriously the Declaration's idea that everyone has an unalienable, individual right to life, liberty, and the pursuit of happiness! That would bar legislation against gays, something that appears to stand first and foremost on Schaefer's public-policy agenda.

At one point Schaefer lashes out at the Supreme Court for daring to "rewrite the Bill of Rights into a vehicle of moral libertarianism." His ignorance is showing here since libertarianism is not a moral but a political doctrine, concerned with the principles that govern human interaction and the administrators of law and public policy, not a system of standards distinguishing right from wrong in all spheres.

It's also worth noting that Schaefer repeatedly links Rawls with Robert Nozick, despite the fact that the two were adversaries on numerous crucial fronts, especially on the scope of equality in community life.

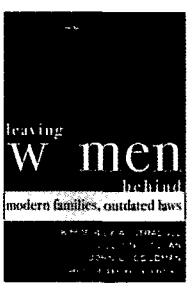
There are many fine nuggets of criticism in this book. I wish Schaefer had contained himself and stuck to his announced project to "challenge the claims that [Rawls's work] is a proper model of philosophical inquiry and that its effects on the American constitutional order promise to be salutary." While *Illiberal Justice* performs a solid job of demolition as far as Rawls's efforts are concerned, the more positive parts of the book are seriously wanting.

Tibor Machan (TMachan@gmail.com) holds the R.C. Hoiles Chair in Business Ethics and Free Enterprise at Chapman University and is the author of, among other books, Individuals and Their Rights.

Leaving Women Behind: Modern Families, Outdated Laws

by Kimberly A. Strassel, Celeste Colgan, and John C. Goodman
Rowman & Littlefield • 2007 • 215 pages •
$16.95 paperback

Reviewed by Karen Y. Palasek



Leaving Women Behind: Modern Families, Outdated Laws makes a convincing case that tax and labor law has been disadvantageous to women—especially married women and married women with children—as compared to men. The authors identify a host of specific areas in which this is true, but some readers may think the accompanying remedies rely too much on government and not enough on the market.

The book takes as its premise that working women, particularly working women with children, need federal relief from outdated laws that favor single-income families and penalize working mothers—laws such as the 1938 Fair Labor Standards Act that creates what the authors call "the 40-hour straightjacket." The law simply does not reflect current labor-market realities. The authors cite the significant increase in labor-force participation by working women with children since 1950. Unfortunately, to their detriment, the legal environment has remained static.

The argument that existing law penalizes women with families is persuasively developed in light of the treatment of child-care expenses, rigidities in the

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employment contract, and a host of other concerns. The authors also bring to light the hefty regulatory onus attached to at-home work, including the tax treatment of savings and investment, retirement funds, Social Security and survivors' benefits, and health-care coverage.

In examining the problems facing working women, the book points out that labor regulations have been written with full-time workers and single-earner households in mind. Removing obstacles to part-time work (which would benefit many women, but also some men) will require regulatory change. The authors suggest, for example, allowing employers to offer wage compensation in lieu of mandatory (and possibly redundant) fringe benefits like health coverage. That would improve the attractiveness of part-time work. The need for such deregulation to improve flexibility in labor negotiations is an important theme of the book.

For retired, divorced, or widowed women, the current tax treatment of retirement and spousal benefits is especially problematic. The chief issues involve low returns for Social Security to the second (usually female) income earner, the loss of Social Security benefits for some divorced women, and the fact that tax incentives cause workers to underinsure for old age and overinsure for the present. (This last problem is not the exclusive province of working women.) Those problems reinforce the book's main argument that current law favors single-earner households and should be changed for both fairness and efficiency.

The remedies proposed in this volume would erase many of the inequities faced by women. But equally important—and this is a point not emphasized in the text—these tax and regulatory changes would usually benefit the entire family as well.

Leaving Women Behind presents each chapter as a stand-alone summary of a single issue, followed by the authors' suggested reforms. The chapter on "Women as Workers," for example, discusses part-time work and flexible schedules. Those discussions do a fairly good job of identifying problems and possible solutions, but fail to identify many important or likely sources of opposition to reform. The book would have been strengthened if the authors had spent some time considering the likely objections to reform from labor unions and taxing authorities, and how coalitions might be built to overcome them.

I have a few other reservations. The authors don't specify whether their reforms would *require* employers to offer flexible work and benefits schedules, or whether these would be a matter of market choice and competitive employment behavior. I wish that they had stated that all their reforms should be to *permit* increased flexibility, but not *mandate* any changes. Also, because family demands cause women to enter and exit the work force far more frequently than do men, another flexibility reform would call for privatized unemployment insurance (UI), tailored to avoid the benefits penalty now facing working women. Not dealing with the problems created by our mandatory UI system is a significant oversight. In fact, the authors advocate changes to make it easier for part-time workers to qualify for unemployment benefits, but we ought to be moving away from the redistributive UI system and into voluntary mechanisms to handle income interruptions.

Despite recognizable obstacles to implementing its various reform plans, *Leaving Women Behind* takes an optimistic view. Government regulation has made a terrible mess of the labor market, and working women are the main (but certainly not the only) losers. The book presents an informative and appealing, if incomplete, case for a deregulatory agenda.

Karen Palasek (kpalasek@johnlocke.org) is director of academic programs at the John Locke Foundation.

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Unpleasant Economists

BY WALTER E. WILLIAMS

Economists are not the most pleasant people to have around when others are delightfully praising the benefits of this or that public policy. We acknowledge the existence of scarcity, the fact that to enjoy more of one thing requires having less of another, which in turn forces us into bringing up the unpleasant topic of costs. Let's look at how unpleasant economists and their subject can be.

The Energy Independence and Security Act of 2007 mandated that oil companies increase the amount of ethanol mixed with gasoline. The argued benefits were that it would decrease our dependence on foreign oil and provide a more environmentally friendly fuel. Anyone with an ounce of brains would have realized that diverting crops from food to fuel would raise the prices of a host of corn-related foods, such as corn-fed meat and dairy products. A Purdue University study found that the ethanol program has cost U.S. consumers $15 billion in higher food costs in 2007, and it will be considerably higher in 2008. Higher food prices, as a result of the biofuels industry, have had international consequences as seen in the food riots that have broken out in Egypt, Haiti, Yemen, Bangladesh, Mexico, and other nations.

The victims of benefits-oriented policies, such as those of the Energy Independence and Security Act of 2007, are visible, but for many other policies the victims and the costs are invisible.

Anti-Terrorism Spending

The victims of benefits-oriented policies, such as those of the Energy Independence and Security Act of 2007, are visible, but for many other policies the victims and the costs are invisible. That is the case with anti-terrorism expenditures. Take Wyoming with its two major cities: Cheyenne (population 53,000) and Casper (50,000). Federal and state homeland security anti-terrorism expenditures there in 2007 totaled $6,673,910. The benefits of such expenditures are that they might prevent Wyoming from being attacked and if attacked, ameliorate some of the consequences.

There's no precise way to determine Wyoming's risk of a terrorist attack and its cost, but simple reasoning suggests that too little or too much can be spent. The costs of spending too little might result in a devastating terrorist attack that could have been prevented. The costs of spending too much are less obvious because the victims are invisible. For example, the price for dump trucks for snow and ice removal ranges between $140,000 and $160,000. How many Wyoming lives could have been saved had some of the anti-terrorism expenditures been spent on additional dump trucks to clear streets and roads of snow and ice? Those victims are invisible.

Environmentalism

Environmentalists have been very active and successful in California in getting huge tracts of land set aside as "open space," on which nothing can be built, and enacting "smart growth" policies severely restricting residential and business construction. Open space and smart growth are seen as benefits. The cost is skyrocketing housing prices at some multiple of housing prices nationwide, whereas before the 1970s they were similar. Dr. Thomas Sowell wrote, "One of the ways of coping with high housing costs is with 'creative'—and risky—financing. Roughly two-thirds of the home mortgages in the San Francisco Bay area are

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interest-only mortgages. Theoretically, you could make mortgage payments forever without acquiring a cent of equity in your home. . . . In reality, the interest-only mortgage payments apply for only a limited number of years—three to five years in most cases—after which the payments rise, so as to contribute something toward the payment of the principal. People who expect their incomes to rise significantly in a few years assume that they will be able to handle the higher payments then. Of course that assumption can turn out to be wrong and the house can be lost" ("Froth in Frisco?" *Wall Street Journal*, May 26, 2005). Such practices have contributed to the subprime crisis we now face.

There's another cost. According to Census estimates, the number of black residents in San Francisco has shrunk from 13.4 percent of the population in 1970 to just 6.5 percent in 2005—the steepest decline in any major American city. Guess what. San Francisco Mayor Gavin Newsom appointed a task force to study how to reverse decades of policies that black leaders say have fueled the flight. He made no mention of environmentalist policies that have driven the cost of housing beyond the reach of many blacks.

FDA

The Food and Drug Administration's (FDA) beneficent mission is to ensure the safety and effectiveness of pharmaceuticals. FDA officials can make two types of errors: approving a drug that has unanticipated dangerous side effects, or disapproving and delaying a drug that is both safe and effective. An FDA official has unequal incentives to avoid these two types of errors. Making the first error, erring on the side of under-caution, the victims are visible and he is directly accountable. Erring on the side of over-caution, the cost and the victims are invisible and there is no accountability. Victims die never knowing why.

In an article in *Regulation* magazine, Robert M. Goldberg examined some examples of the costs of FDA delay:

Beta Blockers: Beta blockers regulate hypertension and heart problems. The FDA held up approval of beta blockers for eight years because it believed they caused cancer. In the meantime, according to Dr. Louis Lasagna of the Tufts University. Center for the Study of Drug Development, 119,000 people died who might have been helped by that medication.

Clozaril: First approved and used in 1970 in Europe, Clozaril's ability to treat schizophrenics who did not respond to other medicines became known in 1979. Yet the drug was not approved in the United States until 1990 because companies believed the FDA would reject it on the grounds that 1 percent of all patients who take the drug contract a blood disease. As an article in the New England Journal of Medicine marveled . . . : "What is remarkable is that [Clozaril] has a beneficial effect on a substantial proportion [30 to 50 percent] of patients who have an inadequate response to other . . . drugs." FDA delay therefore meant that nearly 250,000 people with schizophrenia suffered needlessly, when relief was at hand.

Mevacor: Mevacor is a cholesterol-lowering drug that has been linked to reduction in death due to heart attacks. It was available in Europe in 1989 but did not become available in the United States until 1992. Studies confirm what doctors saw to be the case: taking the drug reduced death due to heart disease by about 55 percent. During that three-year period as many as a thousand people a year died from heart disease because of the FDA delay.

The economist's bottom-line message is that for the sake of human compassion and efficiency, any discussion of benefits from this or that public policy should entail an explicit acknowledgment of costs.

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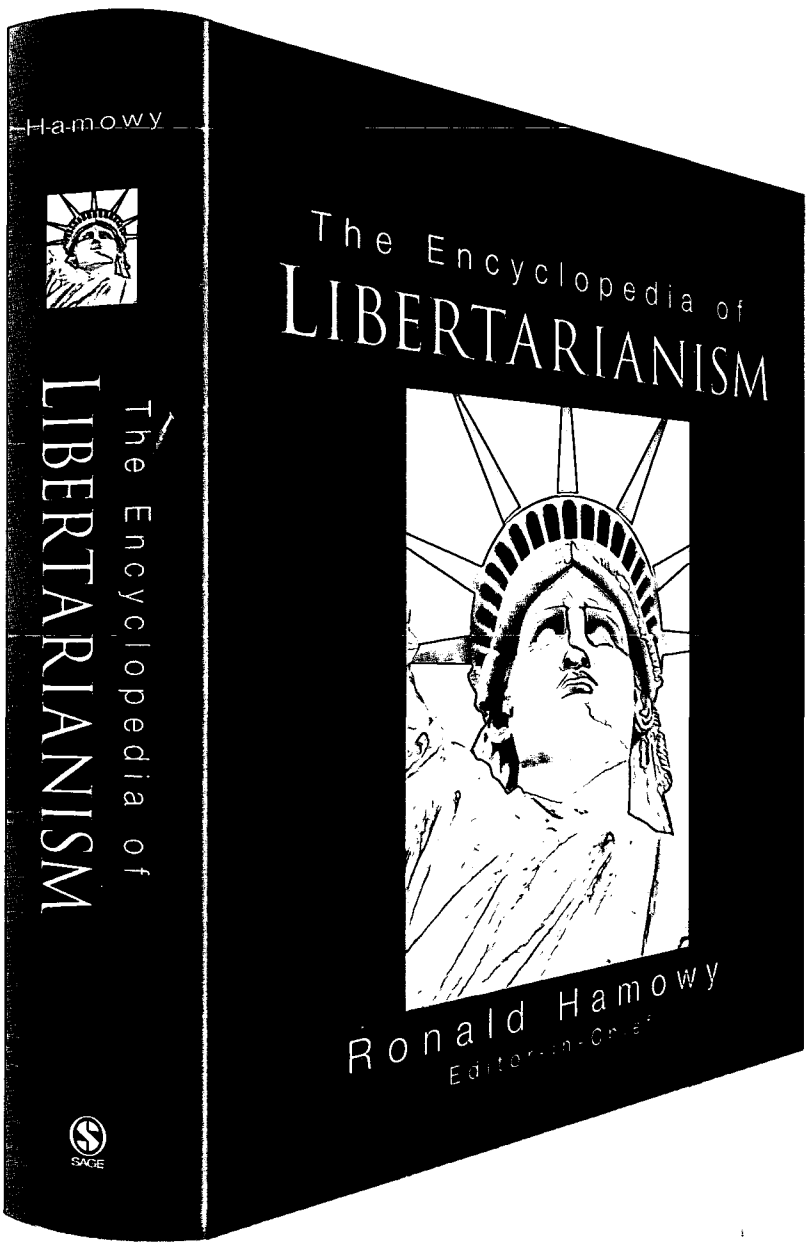

Libertarianism has had its *Primer*, its *Reader*, its *Freewheeling History*—now at last it has its encyclopedia: *The Encyclopedia of Libertarianism*. Editor Ronald Hamowy, a distinguished scholar who studied under Mises, Hayek, and Friedman, has included more than 300 succinct, original articles on libertarian ideas, institutions, and thinkers. Contributors include James Buchanan, Richard Epstein, Tyler Cowen, Randy Barnett, Ellen Frankel Paul, Deirdre McCloskey, and more than 100 other scholars. *The Encyclopedia* begins with an introductory essay offering a historical and thematic overview of key events and thinkers in the development of classical liberal and libertarian thought. This comprehensive book, years in the making, will instantly become the standard guide to libertarian people and ideas.

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